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NOUVEAU

RECUEIL GÉNÉRAL

DE

TRAITÉS

ET

AUTRES ACTES RELATIFS AUX RAPPORTS DE DROIT INTERNATIONAL.

CONTINUATION DU GRAND RECUEIL

DE

G. FR. DE MARTENS

PAR

Felix Stoerk
Professeur de droit public à l'Université de Greifswald
Membre de l'Institut de droit international.

DEUXIÈME SÉRIE.

TOME XXXIII.

LEIPZIG
LIBRAIRIE DIETERICH
THEODOR WEICHER
1906.

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DEUXIÈME SÉRIE.

TOME XXXIII.

PREMIÈRE LIVRAISON.

LEIPZIG
LIBRAIRIE DIETERICH
THEODOR WEICHER
1906.

1.

JAPON, RUSSIE.

Traité de paix; signé à Portsmouth, le $\frac{\text{5 septembre}}{\text{23 aout}}$ 1905.*)

The Japan Times du 16 octobre 1905. Bulletin des Lois Russes.

Sa Majesté l'Empereur de toutes les Russies, d'une part, et Sa Majesté l'Empereur du Japon, d'autre part, étant animés du désir de rétablir les bienfaits de la paix pour Leurs pays et pour Leurs peuples, ont décidé de conclure un Traité de Paix et ont nommé à cet effet Leurs Plénipotentiaires, savoir;

Sa Majesté l'Empereur de Russie:

Son Excellence M. Serge Witte, Son Secrétaire d'Etat et Président du Comité des Ministres de l'Empire de Russie et

Son Excellence le Baron Roman Rosen, Maître de la Cour Impériale de Russie et Son Ambassadeur Extraordinaire et Plénipotentiaire auprès des Etats-Unis d'Amérique;

His Majesty the Emperor of Japan on the one part, and His Majesty the Emperor of all the Russias on the other part, animated by the desire to restore the blessings of peace to Their countries and peoples, have resolved to conclude a Treaty of Peace, and have, for this purpose, named Their Plenipotentiaries, that is to say:

His Majesty the Emperor of Japan:

His Excellency Baron Komura Jutaro, Jusammi, Grand Cordon of the Imperial Order of the Rising Sun, His Minister for Foreign Affairs, and

His Excellency M. Takahira Kogoro, Jusammi, Grand Cordon of the Imperial Order of the Sacred Treasure, His Envoy Extraordinary and Minister Plenipotentiary to the United States of America;

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*) Ratifié le 1/14 octobre 1905.

et Sa Majesté l'Empereur du Japon:

Son Excellence le Baron Komura Iutaro, Iusammi, grand cordon de l'ordre Impérial du Soleil Levant, Son Ministre des Affaires Etrangères et

Son Excellence M. Takahira Kogoro, Iusammi, grand cordon de l'ordre Impérial du Trésor Sacré, Son Envoyé Extraordinaire et Ministre Plénipotentiaire auprès des Etats-Unis d'Amérique;

Lesquels, après avoir échangé leurs pleins pouvoirs, trouvés en bonne et due forme, ont conclu les Articles suivants:

Article I.

Il y aura à l'avenir paix et amitié entre Leurs Majestés l'Empereur de toutes les Russies et l'Empereur du Japon, ainsi qu'entre Leurs Etats et sujets respectifs.

Article II.

Le Gouvernement Impérial de Russie, reconnaissant que le Japon possède en Corée des intérêts prédominants politiques, militaires et économiques, s'engage à ne point intervenir ni mettre d'obstacles aux mesures de direction, de protection et de contrôle que le Gouvernement Impérial du Japon pourrait considérer nécessaire de prendre en Corée.

Il est entendu que les sujets Russes en Corée seront traités exactement de la même manière que les ressortissants des autres pays étrangers à savoir qu'ils seront placés sur le même pied que les ressortissants de la nation la plus favorisée.

and His Majesty the Emperor of all the Russias:

His Excellency M. Serge Witte, His Secretary of State and President of the Committee of Ministers of the Empire of Russia, and

His Excellency Baron Roman Rosen, Master of the Imperial Court of Russia and His Ambassador Extraordinary and Plenipotentiary to the United States of America;

Who, after having exchanged their full powers which were found to be in good and due form, have concluded the following Articles:

Article I.

There shall henceforth be peace and amity between Their Majesties the Emperor of Japan and the Emperor of all the Russias and between Their respective States and subjects.

Article II.

The Imperial Russian Government, acknowledging that Japan possesses in Korea paramount political, military and economical interests, engage neither to obstruct nor interfere with the measures of guidance, protection and control which the Imperial Government of Japan may find it necessary to take in Korea.

It is understood that Russian subjects in Korea shall be treated exactly in the same manner as the subjects or citizens of other foreign Powers, that is to say, they shall be placed on the same footing as the subjects or citizens of the most favoured nation.

Il est de même convenu que pour éviter toute cause de malentendu, les deux Hautes Parties Contractantes s'abstiendront, sur la frontière Russo-Coréenne, de prendre toute mesure militaire qui pourrait menacer la sécurité du territoire Russe ou Coréen.

Article III.

La Russie et le Japon s'engagent mutuellement:

1. A évacuer complètement et simultanément la Manchourie, à l'exception du territoire sur lequel s'étend le bail de la presqu'île de Liaotong, conformément aux dispositions de l'Article additionel I annexé à ce traité; et

2. restituer entièrement et complètement à l'administration exclusive de la Chine toutes les parties de la Manchourie qui sont occupées maintenant par les troupes Russes et Japonaises, ou qui sont sous leur contrôle, à l'exception du territoire susmentionné.

Le Gouvernement Impérial de Russie déclare qu'il n'a point en Manchourie d'avantages territoriaux ou concessions préférentielles ou exclusives de nature à porter atteinte à la souveraineté de la Chine ou incompatibles avec le principe d'opportunité égale.

Article IV.

La Russie et le Japon s'engagent réciproquement à ne mettre aucun obstacle aux mesures générales qui s'appliquent également à toutes les nations et que la Chine pourrait prendre pour le développement du commerce et de l'industrie en Manchourie.

Article V.

Le Gouvernement Impérial de Russie cède au Gouvernement Imperial du

It is also agreed that, in order to avoid all cause of misunderstanding, the two High Contracting Parties will abstain, on the Russo-Korean frontier, from taking any military measure which may menace the security of Russian or Korean territory.

Article III.

Japan and Russia mutually engage:

1. To evacuate completely and simultaneously Manchuria except the territory affected by the lease of the Liao-tung Peninsula, in conformity with the provisions of additional Article I. annexed to this Treaty; and

2. To restore entirely and completely to the exclusive administration of China all portions of Manchuria now in the occupation or under the control of the Japanese or Russian troops, with the exception of th territory above mentioned.

The Imperial Government of Russia declare that they have not in Manchuria any territorial advantages or preferential or exclusive concessions in impairment of Chinese sovereignty or inconsistent with the principle of equal opportunity.

Article IV.

Japan and Russia reciprocally engage not to obstruct any general measures common to all countries, which China may take for the development of the commerce and industry of Manchuria.

Article V.

The Imperial Russian Government transfer and assign to the Imperial

Japon, avec le consentement du Gouvernement de Chine, le bail de Port-Arthur, de Talien et des territoires et eaux territoriales adjacents, ainsi que tous les droits, privilèges et concessions se rattachant à ce bail ou en faisant partie, et il cède, de même, au Gouvernement Impérial du Japon, tous les travaux et propriétés publics dans le territoire sur lequel s'étend le bail susmentionné.

Les deux Hautes Parties Contractantes s'engagent mutuellement à obtenir du Gouvernement de Chine le consentement mentionné dans la stipulation ci-dessus.

Le Gouvernement Impérial du Japon donne de sa part l'assurance que les droits de propriété des sujets russes dans le territoire susmentionné seront parfaitement respectés.

Article VI.

Le Gouvernement Impérial de Russie s'engage à céder au Gouvernement Impérial du Japon, sans compensation, avec le consentement du Gouvernement de Chine, le chemin de fer Tchan-Tchoun (Kouan-Tchien-Tsy) et Port-Arthur et tous ses embranchements avec tous les droits, privilèges et propriétés y appartenant dans cette région, ainsi que toutes le mines de charbon dans ladite région, appartenant à ce chemin de fer ou en exploitation pour son profit.

Les deux Hautes Parties Contractantes s'engagent mutuellement à obtenir du Gouvernement de Chine le consentement mentionné dans la stipulation ci-dessus.

Article VII.

La Russie et le Japon s'engagent à exploiter leurs chemins de fer respectifs en Manchourie exclusivement

Government of Japan, with the consent of the Government of China, the lease of Port Arthur, Talien and adjacent territory and territorial waters and all rights, privileges and concessions connected with or forming part of such lease, and they also transfer and assign to the Imperial Government of Japan all public works and properties in the territory affected by the above mentioned lease.

The two High Contracting Parties mutually engage to obtain the consent of the Chinese Government mentioned in the foregoing stipulation.

The Imperial Government of Japan on their part undertake that the proprietary rights of Russian subjects in the territory above referred to shall be perfectly respected.

Article VI.

The Imperial Russian Government engage to transfer and assign to the Imperial Government of Japan, without compensation and with the consent of the Chinese Government, the railway between Chang-chun (Kuan-cheng-tzu) and Port Arthur and all its branches, together with all rights, privileges and properties appertaining thereto in that region, as well as all coal mines in the said region belonging to or worked for the benefit of the railway.

The two High Contracting Parties mutually engage to obtain the consent of the Government of China mentioned in the foregoing stipulation.

Article VII.

Japan and Russia engage to exploit their respective railways in Manchuria exclusively for commercial and indus-

dans un but commercial et industriel, mais nullement dans un but stratégique.

Il est entendu que cette restriction ne s'applique pas aux chemins de fer dans le territoire sur lequel s'étend le bail de la presqu'île de Liaotong.

Article VIII.

Les Gouvernements Impériaux de Russie et du Japon, en vue de favoriser et de faciliter les relations et le trafic, concluront, aussitôt que possible, une convention séparée, pour le réglement de leurs services de raccordement de chemins de fer en Manchourie.

Article IX.

Le Gouvernement Impérial de Russie cède au Gouvernement Impérial du Japon en perpétuité et en pleine souveraineté la partie sud de l'île de Sakhaline et toutes les îles qui y sont adjacentes, ainsi que tous les travaux et propriétés publics qui s'y trouvent. Le cinquantième parallèle de latitude nord est adopté comme la limite du territoire cédé. La ligne frontière exacte de ce territoire sera déterminé conformément aux dispositions de l'Article additionnel II annexé à ce Traité.

Le Japon et la Russie conviennent mutuellement de ne construire dans leurs possessions respectives sur l'île de Sakhaline et sur les îles qui y sont adjacentes aucune fortification ni travaux militaires semblables. De même, ils s'engagent respectivement à ne prendre aucune mesure militaire qui pourrait entraver la libre navigation des Détroits de Lapérouse et de Tartarie.

Article X.

Il est réservé aux sujets Russes habitants du territoire cédé au Japon

trial purposes and in no wise for strategic purposes.

It is understood that that restriction does not apply to the railway in the territory affected by the lease of the Liao-tung Peninsula.

Article VIII.

The Imperial Governments of Japan and Russia, with a view to promote and facilitate intercourse and traffic, will, as soon as possible, conclude a separate convention for the regulation of their connecting railway services in Manchuria.

Article IX.

The Imperial Russian Government cede to the Imperial Government of Japan in perpetuity and full sovereignty, the southern portion of the Island of Saghalien and all islands adjacent thereto, and all public works and properties thereon. The fiftieth degree of north latitude is adopted as the northern boundary of the ceded territory. The exact alignment of such territory shall be determined in accordance with the provisions of additional Article II. annexed to this Treaty.

Japan and Russia mutually agree not to construct in their respective possessions on the Island of Saghalien or the adjacent islands, any fortifications or other similar military works. They also respectively engage not to take any military measures which may impede the free navigation of the Straits of La Perouse and Tartary.

Article X.

It is reserved to the Russian subjects inhabitants of the territory ceded

de vendre leurs propriétés immobilières et de se retirer dans leur pays; mais, s'ils préfèrent rester dans le territoire cédé, ils seront maintenus et protégés dans le plein exercice de leurs industries et droits de propriéte à la condition de se soumettre aux lois et à la juridiction japonaises. Le Japon aura la pleine liberté de retirer le droit de résidence dans ce territoire à tous les habitants se trouvant dans l'incapacité politique ou administrative, ou de les déporter de ce territoire. Il s'engage toutefois à ce que les droits de propriété de ces habitants soient pleinement respectés.

Article XI.

La Russie s'engage à s'entendre avec le Japon pour concéder aux sujets Japonais des droits de pêche le long des côtes des possessions Russes dans les Mers du Japon, d'Okhotsk et de Behring.

Il est convenu que l'engagement susmentionné ne portera pas atteinte aux droits déjà appartenant aux sujets Russes ou étrangers dans ces régions.

Article XII.

Le Traité de Commerce et de Navigation entre la Russie et le Japon ayant été annulé par la guerre, les Gouvernements Impériaux de Russie et du Japon s'engagent à adopter, comme base de leurs relations commerciales, jusqu'à la conclusion d'un nouveau traité de commerce et de navigation sur la base du Traité qui était en vigueur antérieurement à la guerre actuelle, le système du traitement réciproque sur le pied de la nation la plus favorisée, y compris les tarifs d'importation et d'exportation, les formalités de douane, les droits de transit et de tonnage,

to Japan, to sell their real property and retire to their country; but, if they prefer to remain in the ceded territory, they will be maintained and protected in the full exercise of their industries and rights of property, on condition of submitting to Japanese laws and jurisdiction. Japan shall have full liberty to withdraw the right of residence in, or to deport from, such territory, any inhabitants who labour under political or administrative disability. She engages, however, that the proprietary rights of such inhabitants shall be fully respected.

Article XI.

Russia engages to arrange with Japan for granting to Japanese subjects rights of fishery along the coasts of the Russian possessions in the Japan, Okhotsk and Behring Seas.

It is agreed that the foregoing engagement shall not affect rights already belonging to Russian or foreign subjects in those regions.

Article XII.

The Treaty of Commerce and Navigation between Japan and Russia having been annulled by the war, the Imperial Governments of Japan and Russia engage to adopt as the basis of their commercial relations, pending the conclusion of a new treaty of commerce and navigation on the basis of the Treaty which was in force previous to the present war, the system of reciprocal treatment on the footing of the most favoured nation, in which are included import and export duties, customs formalities, transit and tonnage dues, and the admission and treatment of

et l'admission et le traitement des agents, des sujets et des vaisseaux d'un pays dans le territorie le l'autre.

Article XIII.

Aussitôt que possible après la mise en vigueur du présent Traité, tous les prisonniers de guerre seront réciproquement restitués. Les Gouvernements Impériaux de Russie et du Japon nommeront, chacun de son côté, un Commissaire spécial qui se chargera des prisonniers. Tous les prisonniers se trouvant entre les mains de l'un des Gouvernements seront remis au Commissaire de l'autre Gouvernement, ou à son représentant, dûment autorisé, qui les recevra en tel nombre et dans tels ports convenables de l'Etat remettant que ce dernier aura notifié d'avance au Commissaire de l'Etat recevant.

Les Gouvernements de Russie et du Japon présenteront l'un à l'autre, le plus tôt possible, après que la remise des prisonniers aura été achevée, un compte documenté des dépenses directes faites respectivement par eux pour le soin et l'entretien des prisonniers depuis la date de la capture ou de la reddition jusqu'à celle de la mort ou de la remise. La Russie s'engage à rembourser au Japon, aussitôt que possible après l'échange de ces comptes, comme il est stipulé ci-dessus, la différence entre le montant réel ainsi dépensé par le Japon et le montant réel également déboursé par la Russie.

Article XIV.

Le présent Traité sera ratifié par Leurs Majestés l'Empereur de toutes les Russies et l'Empereur du Japon. Cette ratification sera, dans le plus bref délai possible et en tous cas pas plus tard que dans cinquante jours

the agents, subjects and vessels of one country in the territories of the other.

Article XIII.

As soon as possible after the present Treaty comes into force, all prisoners of war shall be reciprocally restored. The Imperial Governments of Japan and Russia shall each appoint a special Commissioner to take charge of prisoners. All prisoners in the hands of one Government shall be delivered to and received by the Commissioner of the other Government or by his duly authorized representative, in such convenient numbers and at such convenient ports of the delivering State as such delivering State shall notify in advance to the Commissioner of the receiving State.

The Governments of Japan and Russia shall present to each other, as soon as possible after the delivery of prisoners has been completed, a statement of the direct expenditures respectively incurred by them for the care and maintenance of prisoners from the date of capture or surrender up to the time of death or delivery. Russia engages to repay to Japan, as soon as possible after the exchange of the statements as above provided, the difference between the actual amount so expended by Japan and the actual amount similarly disbursed by Russia.

Article XIV.

The present Treaty shall be ratified by Their Majesties the Emperor of Japan and the Emperor of all the Russias. Such ratification shall, with as little delay as possible and in any case not later than fifty days

à partir de la date de la signature du Traité, notifiée aux Gouvernements Impériaux de Russie et du Japon respectivement, par l'intermédiaire de l'Ambassadeur des Etats-Unis d'Amérique à St.-Pétersbourg et du Ministre de France à Tokio, et à partir de la date de la dernière de ces notifications,*) ce Traité entrera, dans toutes ses parties, en pleine vigueur.

L'échange formel des ratifications se fera à Washington aussitôt que possible.

Article XV.

Le présent Traité sera signé en double en langues Française et Anglaise. Les deux textes sont absolument conformes: mais, en cas de divergence d'interprétation, le texte Français fera foi.

En foi de quoi les Plénipotentiaires respectifs ont signé et scellé de leurs sceaux le présent Traité de Paix.

Fait à Portsmouth (New Hampshire) le vingt trois août (cinq septembre) de l'an mil neuf cent cinq, correspondant au cinquième jour du neuvième mois de la trente huitième année de Meidji.

(signé) *Serge Witte.*
(signé) *Rosen.*
(signé) *Iutaro Komura.*
(signé) *K. Takahira.*

Conformément aux dispositions des Articles III et IX du Traité de Paix entre la Russie et le Japon en date de ce jour, les Plénipotentiaires soussignés ont conclu les Articles additionnels suivants:

from the date of the signature of the Treaty, be announced to the Imperial Governments of Japan and Russia respectively through the French Minister in Tokio and the Ambassador of the United States in Saint-Petersburg and from the date of the later of such announcements*) this Treaty shall in all its parts come into full force.

The formal exchange of the ratifications shall take place at Washington as soon as possible.

Article XV.

The present Treaty shall be signed in duplicate in both the English and French languages. The texts are in absolute conformity, but in case of discrepancy in interpretation, the French text shall prevail.

In witness whereof the respective Plenipotentiaries have signed and affixed their seals to the present Treaty of Peace.

Done at Portsmouth (New Hampshire) this fifth day of the ninth month of the thirty-eighth year of Meiji, corresponding to the twenty-third day of August (fifth September) one thousand nine hundred and five.

(Signed) *Jutaro Komura.*
(Signed) *K. Takahira.*
(Signed) *Serge Witte.*
(Signed) *Rosen.*

Supplementary Agreement.

In conformity with the provisions of Articles III. and IX. of the Treaty of Peace between Japan and Russia of this date, the undersigned Plenipotentiaries have concluded the following additional Articles:

*) Date de la notification: 15 octobre 1905.

I. Ad Article III.

Les Gouvernements Impériaux de Russie et du Japon s'engagent mutuellement à commencer le retrait de leurs forces militaires du territoire Manchourie simultanément et immédiatement après la mise en vigueur du Traité de Paix; et dans une période de dix-huit mois à partir de cette date les armées des deux Puissances seront complètement retirées de la Manchourie à l'exception du territoire à bail de la presqu'île de Liaotong.

Les forces des deux Puissances occupant les positions frontales seront retirées les premières.

Les Hautes Parties Contractantes se réservent le droit de maintenir des gardes pour protéger leurs lignes de chemins de fer respectives en Manchourie.

Le nombre de ces gardes n'excèdera pas quinze hommes par kilomètre; et, dans la limite de ce nombre maximum, les Commandants des armées Russes et Japonaises fixeront, de commun accord le nombre des gardes qui seront employés, le plus minime possible, conformément aux exigences réelles.

Les Commandants des forces Russes et Japonaises en Manchourie s'entendront sur tous les détails relatifs à l'éxécution de l'évacuation conformément aux principes ce-dessus énumérés et prendront, de commun accord, les mesures nécessaires pour effectuer l'evacuation aussitôt que possible et en tout cas pas plus tard que dans la période de dix-huit mois.

II. Ad article IX.

Aussitôt que possible après la mise en vigueur du présent Traité une Commission de Délimitation, composée

I.—To Article III.

The Imperial Governments of Japan and Russia mutually engage to commence the withdrawal of their military forces from the territory of Manchuria simultaneously and immediately after the Treaty of Peace comes into operations, and within a period of eighteen months from that date, the Armies of the two countries shall be completely withdrawn from Manchuria, except from the leased territory of the Liaotung Peninsula.

The forces of the two countries occupying the front positions shall be first withdrawn.

The High Contracting Parties reserve to themselves the right to maintain guards to protect their respective railway lines in Manchuria. The number of such guards shall not exceed fifteen per kilomètre and within that maximum number, the Commanders of the Japanese and Russian Armies shall, by common accord, fix the number of such guards to be employed, as small as possible having in view the actual requirements.

The Commanders of the Japanese and Russian forces in Manchuria shall agree upon the details of the evacuation in conformity with the above principles, and shall take by common accord the measures necessary to carry out the evacuation as soon as possible and in any case not later than the period of eighteen months.

II—To Article IX.

As soon as possible after the present Treaty comes into force, a Commission of Delimitation, composed

de nombre égal de membres qui seront nommés respectivement par les deux Hautes Parties Contractantes, marquera sur les lieux, d'une manière permanente, la ligne exacte entre les possessions Russes et Japonaises de l'île de Sakhaline. La Commission sera tenue, autant que les considération topographiques le permettront, à suivre le cinquantième parallèle de latitude nord pour la ligne de démarcation, et dans le cas où des déviations de la dite ligne sur quelques points seront trouvées nécessaires, compensation en sera faite par des déviations corrélatives sur d'autres points. Il sera de même le devoir de la dite Commission de préparer une liste et description des îles adjacentes qui seront comprises dans la cession, et finalement la Commission préparera et signera les cartes constatant les limites du territoire cédé. Les travaux de la Commission seront soumis à l'approbation des Hautes Parties Contractantes.

Les Articles additionnels mentionnés ci-dessus seront considérés comme ratifiés par la ratification du Traité de Paix, auquel ils sont annexés.

Portsmouth, le 23 août (5 septembre) 1905, correspondant au 5-me jour, 9-ième mois, 38-ième année de Meidji.

(Signed) *Serge Witte.*
(Signed) *Rosen.*
(Signed) *Jutaro Komura.*
(Signed) *K. Takahira.*

of an equal number of members to be appointed respectively by the two High Contracting Parties, shall on the spot, mark in a permanent manner the exact boundary between the Japanese and Russian possessions on the Island of Saghalien. The Commission shall be bound, so far as topographical considerations permit, to follow the fiftieth parallel of north latitude as the boundary line and in case any deflections from that line at any points are found to be necessary, compensation will be made by correlative deflections at other points. It shall also be the duty of the said Commission to prepare a list and description of the adjacent islands included in the cession and finally the Commission shall prepare and sign maps showing the boundaries of the ceded territory. The work of the Commission shall be subject to the approval of the High Contracting Parties.

The foregoing additional Articles are to be considered as ratified with the ratification of the Treaty of Peace to which they are annexed.

Portsmouth, the 5th day, 9th month, 8th year of Meiji, corresponding to the 23rd August (5th September) 1905.

(signé) *Iutaro Komura.*
(signé) *K. Takahira.*
(signé) *Serge Witte.*
(signé) *Rosen.*

2.

ALLEMAGNE, PAYS-BAS.

Convention concernant l'établissement et la subvention des ressortissants reciproques dans le pays de l'autre Partie contractante; signé à la Haye, le 17 décembre 1904.

Staatsblad van het Koninkrijk der Nederlanden.

Ihre Majestät die Königin der Niederlande und Seine Majestät der Deutsche Kaiser, König von Preussen, im Namen des Deutschen Reichs, von dem Wunsche beseelt, die zwischen den Niederlanden und dem Deutschen Reiche bestehenden freundschaftlichen Beziehungen zu erhalten und zu befestigen, und von der Absicht geleitet, die Bedingungen für die Niederlassung der Angehörigen der Niederlande im Deutschen Reiche und der Angehörigen des Deutschen Reiches in den Niederlanden, für die wechselseitige Unterstützung von Hilfsbedürftigen sowie für die zwangsweise Überführung auszuweisender Personen über die beiderseitigen Landesgrenzen zu regeln, sind übereingekommen, zu diesem Zwecke einen Vertrag abzuschliessen, und haben zu Allerhöchstihren Bevollmächtigten ernannt:

Ihre Majestät die Königin der Niederlande:

Allerhöchstihren Minister der auswärtigen Angelegenheiten, Herrn Baron R. Melvil von Lynden,

Seine Majestät der Deutsche Kaiser, König von Preussen:

Allerhöchstihren ausserordentlichen Gesandten und bevollmächtigten Minister bei Ihrer Majestät der Königin der Niederlande, Herrn Karl von Schlözer,

welche nach gegenseitiger Mitteilung ihrer in guter und gehöriger Form befundenen Vollmachten über folgende Artikel übereingekommen sind:

Artikel 1.

Die Angehörigen jedes vertragschliessenden Teiles sollen berechtigt sein, sich in dem Gebiete des anderen Teiles ständig niederzulassen oder dauernd oder zeitweilig aufzuhalten, wenn und solange sie die dortigen Gesetze und Polizeiverordnungen befolgen.

Um dieses Recht beanspruchen zu können, müssen sie mit gültigen Pässen oder anderen genügenden Ausweispapieren über ihre Person und ihre Staatsangehörigkeit versehen sein; die beiden Teile werden sich durch Notenaustausch darüber verständigen, welche Ausweispapiere ausser den Pässen als genügend anzusehen sind.

Artikel 2.

Durch die Bestimmungen des Artikels 1 wird nicht berührt das Recht jedes vertragschliessenden Teiles, Angehörigen des anderen Teiles die Niederlassung oder den Aufenthalt zu untersagen, sei es infolge eines gerichtlichen Urteils, sei es aus Gründen der inneren oder äusseren Sicherheit des Staates, sei es, weil die Interessen der öffentlichen Gesundheit oder Sittlichkeit es erfordern, oder weil die Personen weder genügende Unterhaltsmittel besitzen, noch durch ihre Arbeitskraft erwerben können.

Artikel 3.

Jeder vertragschliessende Teil behält sich vor, den Angehörigen des anderen Teiles, die ihm früher angehört und die Staatsangehörigkeit vor Erfüllung ihrer militärischen Pflichten verloren haben, die Niederlassung oder den Aufenthalt zu untersagen. Jedoch soll von der Ausweisung abgesehen werden, wenn sich bei der Prüfung der Verhältnisse ergibt, dass der Wechsel der Staatsangehörigkeit in gutem Glauben und nicht zur Umgehung der militärischen Pflichten herbeigeführt ist.

Ebenso behält sich jeder Teil vor, solchen Angehörigen des anderen Teiles die Niederlassung oder den Aufenthalt zu untersagen, welche in ihrem Heimatland ihre militärischen Pflichten verletzt haben.

Artikel 4.

Die Angehörigen jedes vertragschliessenden Teiles, die sich in dem Gebiete des anderen Teiles niedergelassen haben oder aufhalten, können in dem anderen Lande weder zum persönlichen Dienste im Heere, in der Marine, im Landsturm oder in einem anderen militärisch eingerichteten Verbande noch zu einer Ersatzleistung angehalten werden.

Artikel 5.

Jeder vertragschliessende Teil verpflichtet sich, dafür zu sorgen, dass in seinem Gebiete den hilfsbedürftigen Angehörigen des anderen Teiles die erforderliche Verpflegung und Kur nach den am Aufenthaltsorte für die eigenen Angehörigen geltenden Grundsätzen zu teil werde, bis ihre Rückkehr in die Heimat ohne Nachteil für ihre und anderer Gesundheit geschehen kann.

Ein Ersatz der durch die Verpflegung, die Kur oder die Beerdigung solcher Personen erwachsenen Kosten kann gegenüber dem Teile, dem der Hilfsbedürftige angehört, oder gegenüber den öffentlichen Verbänden oder Kassen dieses Teiles nicht beansprucht werden.

Für den Fall, dass der Hilfsbedürftige selbst oder dass andere privatrechtlich Verpflichtete zum Ersatze der Kosten imstande sind, bleiben die Ansprüche an diese vorbehalten. Auch sichern sich die beiden Teile die nach der Landesgesetzgebung zulässige Hilfe zur Geltendmachung dieser Ansprüche zu.

Artikel 6.

Die Angehörigen jedes vertragschliessenden Teiles, die sich in dem Gebiete des anderen Teiles niedergelassen haben oder aufhalten und gemäss

Artikel 2, 3 ausgewiesen werden, sind mit ihrer Familie auf Verlangen des ausweisenden Teiles jederzeit in ihr Heimatland wieder zu übernehmen.

Das Gleiche gilt für frühere Angehörige jedes Teiles, solange sie nicht Angehörige des anderen Teiles oder eines dritten Staates geworden sind.

In den Fällen der Abs. 1, 2 entscheidet der ausweisende Teil, ob die in Artikel 2 und in Artikel 3 Abs. 1 vorgesehenen Voraussetzungen der Ausweisung vorliegen, dagegen der übernehmende Teil, ob die in Artikel 3 Abs. 2 vorgesehene Verletzung militärischer Pflichten vorliegt.

Artikel 7.

Die Überführung von Personen, die gemäss Artikel 2, 3 ausgewiesen werden, soll auf Grund eines unmittelbaren Schriftwechsels der für den Übernahmeverkehr bestimmten beiderseitigen Grenzbehörden erfolgen.

Dieser Schriftwechsel vollzieht sich in der Weise, dass die Ausweisung jedesmal von der Grenzbehörde des ausweisenden Teiles der nächsten Grenzbehörde des übernehmenden Teiles anzuzeigeu ist, worauf diese nach Prüfung der Verhältnisse und der Ausweispapiere ihre Zustimmung zur Übernahme der auszuweisenden Person zu erteilen und gleichzeitig den Übernahmeort zu bezeichnen hat.

Artikel 8.

Ein vorgängiger Schriftwechsel ist nicht erforderlich, wenn die auszuweisende Person mit Papieren versehen ist, die noch giltig oder doch erst seit einem Jahre abgelaufen sind, oder wenn kein Zweifel darüber besteht, dass sie dem übernehmenden Teile angehört oder früher angehört hat, oder wenn die erforderlichen Feststellungen durch die Grenzbehörden dieses Teiles ohne Zeitverlust getroffen werden können.

In allen diesen Fällen sollen die Grenzbehörden die auszuweisende Person ohne weitere Förmlichkeit übernehmen.

Die Bestimmungen der Abs. 1, 2 finden keine Anwendung, wenn es sich um die Übernahme einer wegen jugendlichen Alters, Gebrechlichkeit oder Krankheit hilflosen Person handelt; in diesen Fällen behält es bei den Bestimmungen des Artikels 7 sein Bewenden.

Artikel 9.

Eine diplomatische Verhandlung soll stattfinden in den Fällen, in denen die Grenzbehörden sich wegen der Übernahme nicht einigen können, oder wenn die Entscheidung der Grenzbehörde, welche die auszuweisende Person übernommen hat, von den höheren Behörden des Heimatstaats nicht gebilligt wird.

Artikel 10.

Über die Grenzorte, wo die Übernahme der auszuweisenden Personen stattzufinden hat, sowie über die für den Übernahmeverkehr zu bestimmenden Tage werden sich die beiden vertragschliessenden Teile durch Notenaustausch verständigen.

Auch werden die beiden Teile einander die Grenzbehörden bezeichnen, in deren Hand die Übernahmeverhandlungen gelegt werden sollen.

Beide Teile verpflichten sich, ihre Grenzbehörden anzuweisen, alle Übernahmeanträge mit möglichster Beschleunigung zu erledigen, auch einander bei Feststellung der Staatsangehörigkeit der auszuweisenden Personen nach Möglichkeit zu unterstützen.

Artikel 11.

Die Kosten der Beförderung auszuweisender Personen bis zum Übernahmeort werden von dem ausweisenden Teile getragen.

Artikel 12.

Jeder vertragschliessende Teil ist berechtigt, Angehörige des anderen Teiles, denen er gemäss Artikel 2, 3 die Niederlassung oder den Aufenthalt untersagen kann, oder Personen, die keinem der beiden Teile angehören, ohne das in den Artikeln 7 bis 11 vorgesehene Übernahmeverfahren unverzüglich in das Gebiet des anderen Teiles zurückzuschaffen, wenn sie aus diesem Gebiete mit der Eisenbahn in sein Gebiet gelangt sind und auf der ersten Haltestation unmittelbar nach ihrem Eintreffen angehalten werden.

Artikel 13.

Jeder vertragschliessende Teil verpflichtet sich, Angehörige oder frühere Angehörige eines dritten Staates, die sich in dem Gebiete des anderen Teiles aufhalten und dort ausgewiesen werden sollen, auf den im diplomatischen Wege zu stellenden Antrag dieses Teiles durch sein Gebiet nach ihrem Heimatlande zu befördern, wenn der Antrag die Erklärung enthält, dass der andere Teil zum Ersatze der durch die Beförderung entstehenden Kosten und der dritte Staat zur Übernahme der auszuweisenden Person bereit ist.

Durch die Bestimmungen des Abs. 1 werden die Bestimmungen des Auslieferungsvertrags zwischen den Niederlanden und dem Deutschen Reiche vom 31. Dezember 1896 wegen der Durchlieferung nicht berührt.

Artikel 14.

Dieser Vertrag findet keine Anwendung auf die Kolonien und auswärtigen Besitzungen der Niederlande sowie auf die Schutzgebiete des Deutschen Reiches.

Artikel 15.

Dieser Vertrag soll ratifiziert und die Ratifikationsurkunden sollen sobald als möglich ausgetauscht werden.

Der Vertrag tritt in Kraft drei Monate nach Austausch der Ratifikationsurkunden und gilt für die Dauer von drei Jahren.

Falls keiner der vertragschliessenden Teile ein Jahr vor dem Ablaufe des dreijährigen Zeitraums den Vertrag kündigt, bleibt dieser in Geltung bis zum Ablauf eines Jahres von dem Tage an, an dem er von einem der beiden Teile gekündigt wird.

Zu Urkund dessen haben die Bevollmächtigten diesen Vertrag unterzeichnet und mit ihren Siegeln versehen.

Ausgefertigt in doppelter Urschrift im Haag, am 17. Dezember 1904.

(L. S.) *R. Melvil van Lynden.*
(L. S.) *K. v. Schlözer.*

3.

CUBA, BELGIQUE.

Traité d'extradition; signé à la Havane, le 29 octobre 1904.*)

Gaceta oficial de la Republica de Cuba No. 54. 1905.
Moniteur Belge No. 244. 1905.

Son Excellence le Président de la République de Cuba et Sa Majesté le Roi des Belges, désirant régler par une Convention l'extradition des criminels, ont désigné à cet effet, comme Plénipotentiaires:

Son Excellence le Président de la République de Cuba:

M. Carlos Eugenio Ortiz y Coffigny Son Secrétaire d'Etat et de Justice.

Sa Majesté le Roi des Belges:

M. Charles Renoz, Chargé d'Affaires de Belgique à la Havane.

Lesquels, ayant échangé leurs pleins pouvoirs et les ayant trouvés en règle, ont arrêté les articles suivants:

Art. 1er. Le Gouvernement de Cuba et le Gouvernement belge s'engagent à se livrer réciproquement, sur la demande que l'un adressera à l'autre, à la seule exception de leurs nationaux, les individus poursuivis ou condamnés comme auteurs ou complices à raison d'un des crimes ou délits specifiés à l'article 2, par les autorités judiciaires de l'une des deux parties et trouvés sur le territoire de l'autre partie.

Lorsque le fait motivant la demande d'extradition aura été commis hors du territoire de l'Etat requérant, il pourra être donné suite à cette demande, si la législation du pays requis autorise la poursuite du fait similaire commis à l'étranger.

Art. 2. Les crimes et délits à raison desquels l'extradition sera accordée sont les suivants:

1° Homicide volontaire, comprenant les crimes d'assassinat, de meurtre, parricide, infanticide et empoisonnement;

2° Incendie;

3° Coups portés et blessures faites volontairement, soit avec préméditation, soit quand il en est résulté une infirmité ou incapacité permanente de travail personnel, la perte ou la privation de l'usage absolu d'un membre, de l'oeil ou de tout autre organe, ou la mort sans intention de la donner;

4° Viol, attentats à la pudeur avec violence, attentats à la pudeur sans violence sur des enfants au dessous de l'âge déterminé par la législation pénale des deux pays;

5° Enlèvement de mineurs, recel, suppression, substitution ou supposition d'enfant;

6° Vol;

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*) Les ratifications ont été échangées à la Havane, le 15 juillet 1904.

7° Dégats ou entraves aux voies ferrées, mettant ou pouvant mettre en péril la vie des voyageurs;

8° Piraterie ou révolte à bord des navires, quand l'équipage ou les passagers s'emparent du navire par surprise ou violence envers le capitaine;

9° Faux en écritures ou falsification de documents publics, de commerce ou privés; falsification de dépêches télégraphiques; usage de faux;

10° Falsification ou altération frauduleuse d'actes officiels émanant du Gouvernement ou de l'autorité publique ainsi que des tribunaux de justice;

Usage frauduleux des actes ainsi altérés ou falsifiés;

11° Fabrication de fausse monnaie; falsification ou altération de titres ou coupons de la dette publique, de billets de banque nationaux ou étrangers, de papier-monnaie ou d'autres valeurs publiques de crédit, de sceaux, timbres, coins, marques de l'Etat ou des administrations publiques;

Mise en circulation ou usage frauduleux des objets mentionnés ci-dessus altérés ou falsifiés;

12° Détournement de deniers publics par des employés publics ou dépositaires;

13° Banqueroute frauduleuse;

14° Extorsion; menaces d'attentat contre les personnes ou les propriétés punissable de la peine de mort, des travaux forcés ou de la reclusion;

15° Attentats à la liberté individuelle et à l'inviolabilité du domicile commis par des particuliers;

16° Faux témoignage, parjure, subornation de témoins, experts ou interprètes;

17° Escroqueries;

18° Abus de confiance;

19° Avortement;

20° Bigamie;

21° Excitation habituelle à la débauche de mineurs;

22° Recèlement d'objets obtenus à l'aide d'un des crimes ou délits mentionnés au présent article;

23° Tentative de l'un de ces crimes et délits lorsqu'elle est punissable d'après la législation des deux parties contractantes.

Dans tous les cas, l'extradition ne pourra avoir lieu que lorsque le fait similaire sera punissable d'un emprisonnement de plus de six mois, d'après la législation du pays auquel la demande est adressée.

Art. 3. Il est expressément stipulé que l'étranger dont l'extradition aura été accordée ne pourra être poursuivi ou puni pour aucun délit politique antérieur à l'extradition, ni pour aucun fait connexe à un semblable délit, ni pour aucun crime ou délit non prévu pa la présente convention.

Ne sera pas réputé délit politique, ni fait connexe à un semblable délit, l'attentat contre la personne du Chef d'un Etat étranger ou contre celle des membres de sa famille, lorsque cet attentat constituera le fait soit de meurtre, soit d'assassinat, soit d'empoisonnement.

Art. 4. L'individu extradé pourra toutefois être poursuivi ou puni contradictoirement dans les cas suivants, pour une infraction autre que celle qui a motivé l'extradition;

1° S'il a demandé à être jugé ou à subir sa peine, auquel cas sa demande sera communiquée au Gouvernement qui l'a livré:

2° S'il n'a pas quitté pendant le mois qui suit son élargissement définitif le pays auquel il a été livré;

3° Si l'infraction est comprise dans la convention et si le Gouvernement auquel il a été livré a obtenu préalablement l'adhésion du Gouvernement qui a accordé l'extradition. Ce dernier pourra, s'il le juge convenable, exiger la production de l'un des documents mentionnés dans l'article 6 de la présente convention. La réextradition à un pays tiers est soumise aux mêmes règles.

Art. 5. L'extradition ne pourra avoir lieu quand, d'après la loi du pays où se trouve l'inculpé, la peine ou l'action criminelle serait prescrite.

Art. 6. L'extradition ne sera accordée que sur la production des documents ci-après désignés, accompagnés, autant que possible, d'une traduction française:

1° Une sentence de condamnation ou un acte de procédure décrétant formellement ou opérant de plein droit le renvoi de l'inculpé devant la juridiction répressive; ou bien un mandat d'arrêt ou tout autre acte ayant la même force.

2° Les actes du procès indiquant la nature précise des faits incriminés, quand cette indication ne résultera pas des documents mentionnés dans le paragraphe précédent.

Les documents visés dans les deux paragraphes ci-dessus seront produits en original ou en expédition authentique.

3° Le signalement de l'individu réclamé ou les signes particuliers pouvant servir à établir son identité.

4° Le texte de la loi ou des lois pénales applicables au fait incriminé.

Art. 7. Les demandes d'extradition seront toujours adressées par la voie diplomatique ou consulaire.

Art. 8. Dans les cas urgents, l'arrestation provisoire de l'inculpé sera effectuée sur l'avis donné par la poste ou le télégraphe de l'existence d'un mandat d'arrêt, pourvu que cet avis soit transmis par la voie diplomatique ou consulaire.

Art. 9. L'étranger arrêté provisoirement sera mis en liberté en Belgique si, dans le délai de trois mois, à compter du jour de son arrestation, il ne reçoit pas notification d'un des actes mentionnés dans l'article 6, 1°; à Cuba si, dans le même délai, la demande d'extradition n'a pas été accompagnée d'un de ces actes.

Art. 10. Si l'individu réclamé est poursuivi ou condamné dans l'Etat requis, son extradition pourra être différée jusqu'à ce que les poursuites soient abandonnées, qu'il soit acquitté ou absous, ou qu'il ait subi sa peine.

Dans le cas où il serait poursuivi ou détenu dans le même pays, à raison d'obligations qu'il aurait contractées envers des particuliers, son extradition aura lieu néanmoins sous réserve pour ceux-ci de faire valoir ensuite leurs droits devant l'autorité compétente.

Art. 11. Les objets saisis pouvant servir de pièces à conviction, ainsi que tous les objets pouvant provenir du crime ou du délit à raison desquels l'extradition est réclamée, seront, suivant l'appréciation de l'autorité compétente, remis au Gouvernement de la partie requérante, lors même que l'extradition ne pourrait s'effectuer par suite de la mort ou de la disparition ultérieure de l'individu réclamé.

Cette remise comprendra également tous les objets que l'inculpé aurait cachés ou déposés dans le pays et qui seraient découverts par la suite.

Sont réservés toutefois les droits que des tiers, non impliqués dans la poursuite, auraient acquis sur les objets désignés dans le présent article.

Art. 12. Les frais d'arrestation, d'entretien et de transport de l'individu dont l'extradition aura été accordée, ainsi que ceux de consignation et de transport des objets qui, aux termes de l'article précédent, doivent être restitués ou remis, resteront à la charge des deux Etats dans la limite de leurs territoires respectifs.

L'individu à extrader sera conduit au port de l'Etat requis que désignera l'Agent diplomatique ou consulaire accrédité par le Gouvernement réclamant, aux frais duquel il sera embarqué.

Art. 13. Quand, au cours d'une affaire pénale non politique, l'audition de personnes se trouvant dans l'un des deux pays, ou tout autre acte d'instruction, seront jugés nécessaires, une commission rogatoire sera adressée à cet effet, par la voie diplomatique ou consulaire, et il y sera donné suite en observant les lois du pays requis.

Les deux Gouvernements renoncent au remboursement des frais résultant de l'exécution des commissions rogatoires chaque fois qu'il ne s'agira pas d'expertises pouvant entraîner plusieurs vacations.

Art. 14. Les deux Gouvernements s'engagent à se communiquer réciproquement, sans restitution de frais, les condamnations pour crimes et délits de toute espèce qui auront été prononcées par les tribunaux de l'un des deux Etats contre les sujets de l'autre. Cette communication sera effectuée moyennant l'envoi, par voie diplomatique ou consulaire, d'un bulletin ou extrait au Gouvernement du pays auquel appartient le condamné.

Chacun des deux Gouvernements donnera à ce sujet les instructions nécessaires aux autorités respectives.

Art. 15. Les stipulations de la présente Convention seront applicables dans toutes les possessions étrangères ou coloniales que viendraient à posséder les hautes parties contractantes. La demande d'extradition sera adressée, dans ce cas, au Gouverneur ou fonctionnaire principal de la colonie par le principal Agent diplomatique ou consulaire du pays requérant.

Art. 16. Le présent traité entrera en vigueur dix jours après sa publication, conformément aux lois respectives des deux Etats. Chacune

des parties contractantes pourra en tout temps le dénoncer, en prévenant l'autre partie de son intention une année à l'avance.

Les ratifications en seront échangées à la Havane le plus tôt que faire se pourra.

En foi de quoi, les plénipotentiaires respectifs ont signé le présent traité et y ont apposé leur sceau.

Fait en double original, à la Havane, le vingt-neuf octobre mil neuf cent-quatre.

(L. S.) *C. E. Ortiz.*
(L. S.) *Chs. Renoz.*

4.

ETATS-UNIS, PANAMA.

Traité d'extradition; signé à Panama, le 25 mai 1904.*)

Treaty-Series.

The United States of America and the Republic of Panamá, being desirous to confirm their friendly relations and to promote the cause of justice, have resolved to conclude a treaty for the extradition of fugitives from justice between the United States of America and the Republic of Panamá, and have appointed for that purpose the following Plenipotentiaries: The President of the United States of America, William W. Russell, Chargé d'Affaires ad interim of the United States in Panamá, and the President of the Republic of Panamá, Tomás Arias, Secretary of Government of Panamá.

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following articles:

Article I.

The Government of the United States and the Government of the Republic of Panamá mutually agree to deliver up persons who, having been charged with or convicted of any of the crimes and offenses specified in the following article, committed within the jurisdiction of one of the contracting parties, shall seek an asylum or be found within the territories of the other: Provided, that this shall only be done upon such evidence of Criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his or her apprehension and commitment for trial if the crime or offense had been there committed.

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*) Les ratifications ont été échangées à Panama le 8 avril 1905.

Article II.

Extradition shall be granted for the following crimes and offenses:

1. Murder, comprehending assassination, parricide, infanticide and poisoning; attempt to commit murder; manslaughter, when voluntary.

2. Arson.

3. Robbery, defined to be the act of feloniously and forcibly taking from the person of another money, goods, documents or other property by violence or putting him in fear; burglary.

4. Forgery, or the utterance of forged papers; the forgery or falsification of official acts of Government, of public authorities, or of courts of justice, or the utterance of the thing forged or falsified.

5. The counterfeitig, falsifying or altering of money, whether coin or paper, or of instruments of debt created by national, state, provincial, or municipal governments, or of coupons thereof, or of bank notes or the utterance or circulation of the same; or the counterfeiting, falsifying or altering of seals of state.

6. Embezzlement by public officers; embezzlement by persons hired or salaried, to the detriment of their employers; where in either class of cases the embezzlement exceeds the sum of two hundred dollars; larceny.

7. Fraud or breach of trust by a bailee, banker, agent, factor, trustee, or other person acting in a fiduciary capacity, or director or member or officer of any company, when such act is made criminal by the laws of both countries and the amount of money or the value of the property misappropriated is not less than two hundred dollars.

8. Perjury; subornation of perjury.

9. Rape; abduction; kidnapping.

10. Wilful and unlawful destruction or obstruction of railroads which endangers human life.

11. Crimes committed at sea.

(*a*) Piracy, by statute or by the laws of nations.

(*b*) Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas against the authority of the master.

(*c*) Wrongfully sinking or destroying a vessel at sea, or attempting to do so.

(*d*) Assaults on board a ship on the high seas with intent to do grievous bodily harm.

12. Crimes and offenses against the laws of both countries for the suppression of slavery and slave trading.

13. Bribery, defined to be the giving, offering or receiving of a reward to influence one in the discharge of a legal duty.

Extradition is also to take place for participation in any of the crimes and offenses mentioned in this Treaty, provided such participation may be punished, in the United States as a felony, and in the Republic of Panamá by imprisonment at hard labor.

Article III.

Requisitions for the surrender of fugitives from justice shall be made by the diplomatic agents of the contracting parties, or in the absence of these from the country or its seat of government, may be made by the superior Consular Officers.

If the person whose extradition is requested shall have been convicted of a crime or offense, a duly authenticated copy of the sentence of the court in which he was convicted, or if the fugitive is merely charged with a crime, a duly authenticated copy of the warrant of arrest in the country where the crime has been committed, and of the depositions or other evidence upon which such warrant was issued, shall be produced.

The extradition of fugitives under the provisions of this Treaty shall be carried out in the United States and in the Republic of Panamá, respectively, in conformity with the laws regulating extradition for the time being in force in the state on which the demand for surrender is made.

Article IV.

Where the arrest and detention of a fugitive are desired on telegraphic or other information in advance of the presentation of formal proofs, the proper course in the United Staates shall be to apply to a judge or orther magistrate authorized to issue warrants of arrest in extradition cases and present a complaint on oath, as provided by the statutes of the United States.

When, under the provisions of this article, the arrest and detention of a fugitive are desired in the Republic of Panamá, the proper course shall be to apply to the Foreign Office, which will immediately cause the necessary steps to be taken in order to secure the provisional arrest or detention of the fugitive. The provisional detention of a fugitive shall cease and the prisoner be released if a formal requisition for his surrender, accompanied by the necessary evidence of his criminality has not been produced under the stipulations of this Treaty, within two months from the date of his provisional arrest or detention.

Article V.

Neither of the contracting parties shall be bound to deliver up its own citizens or subjects under the stipulations of this Treatry.

Article VI.

A fugitive criminal shall not be surrendered if the offense in respect of which his surrender is demanded be of a political character, or if he proves that the requisition for his surrender has, in fact, been made with a view to try or punish him for an offense of a political character. No person surrendered by either of the high contracting parties to the other shall be triable or tried, or be punished, for any political crime or offense, or for any act connected therewith, committed previously to his extradition. If any question shall arise as to whether a case comes within

the provisions of this article, the decision of the authorities of the government on which the demand for surrender is made, or which may have granted the extradition, shall be final.

Article VII.

Extradition shall not be granted, in pursuance of the provisions of this Treaty if legal proceedings or the enforcement of the penalty for the act committed by the person claimed has become barred by limitation, according to the laws of the country to which the requisition is addressed.

Article VIII.

No person surrendered by either of the high contracting parties to the other shall, without his consent, freely granted and publicly declared by him, be triable or tried or be punished for any crime or offense committed prior to his extradition, other than that for which he was delivered up, until he shall have had an opportunity of returning to the country from which he was surrendered.

Article IX.

All the articles seized which are in the possession of the person to be surrendered at the time of his apprehension, whether being the proceeds of the crime or offense charged, or being material as evidence in making proof of the crime or offense, shall, so far as practicable and in conformity with the laws of the respective countries, be given up when the extradition takes place. Nevertheless, the rights of third parties with regard to such articles shall be duly respected.

Article X.

If the individual claimed by one of the high contracting parties, in pursuance of the present Treaty, shall also be claimed by one or several other powers on account of crimes or offenses committed within their respective jurisdictions, his extradition shall be granted to the State whose demand is first received: Provided, that the government from which extradition is sought is not bound by treaty to give preference otherwise.

Article XI.

The expenses incurred in the arrest, detention, examination, and delivery of fugitives under this Treaty shall be borne by the State in whose name the extradition is sought: Provided, that the demanding government shall not be compelled to bear any expense for the services of such public officers of the government from which extradition is sought as receive a fixed salary; and provided, that the charge for the services of such public officers as receive only fees or perquisites shall not exceed their customary fees for the acts or services performed by them had such acts or services been performed in ordinary criminal proceedings under the laws of the country of which they are officers.

Article XII.

The present Treaty shall take effect on the thirtieth day after the date of the exchange of ratifications, and shall not operate retroactively. The ratifications of the present Treaty shall be exchanged at Washington or at Panamá as soon as possible, and it shall remain in force for a period of six months after either of the contracting Governments shall have given notice of a purpose to terminate it.

In witness whereof, the respective Plenipotentiaries have signed the above articles, both in the English and Spanish languages, and have hereunto affixed their seals.

Done in duplicate at the city of Panamá on the twenty fifth day of May in the year of our Lord nineteen hundred and four.

[Seal.] *W. W. Russell.*
[Seal.] *Tomas Arias.*

5.

NORVÈGE, ETATS-UNIS D'AMÉRIQUE.

Traité additionnel au traité d'extradition du 7 juin 1893*); signé à Washington, le 10 décembre 1904.**)

Overenskomster med fremmede Stater. No. 5 1905.

Whereas the Kingdom of Norway has enacted a new penal code, taking effect January 1, 1905, by which the penalty of imprisonment at hard labor is abolished, His Majesty the King of Sweden and Norway and the United States of America have deemed it expedient to conclude a treaty amending, in this respect, the treaty of extradition concluded between the same High Contracting Parties of June 7, 1993, and have appointed for that purpose the following Plenipotentiaries:

His Majesty the King of Sweden and Norway, J. A. W. Grip, His Majesty's Envoy Extraordinary and Minister Plenipotentiary to the United States of America; and

The President of the United States of America, John Hay, Secretary of State of the United States of America;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following articles:

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*) V. **N. R. G.** 2 s. XXII, 460. **) Ratifié.

Article I.

The last paragraph of Article II of the Treaty of Extradition, concluded June 7, 1893, between His Majesty the King of Sweden and Norway and the United States of America, is hereby amended, to take effect on January 1, 1905, by striking out, after the word „Norway", the words „by imprisonment at hard labor", and inserting in their place „by a higher penalty than imprisonment for three months".

The paragraph in question shall then read, as amended:

„Extradition is also to take place for participation in any of the crimes and offenses mentioned in this Treaty, provided such participation may be punished in Norway by a higher penalty than imprisonment for three months and in the United States as a felony".

Article II.

The ratifications of the present treaty shall be exchanged as soon as possible, and it shall remain in force as long as the Treaty of Extradition hereby amended, and shall be terminable on the same notice.

In witness whereof, the respective Plenipotentiaries have signed the above articles, both in the Norwegian and English languages, and have hereunto affixed their seals.

Done in duplicate at the City of Washington, this tenth day of December, one thousand nine hundred and four.

J. A. W. Grip.
John Hay.

6.

GRANDE-BRETAGNE, CUBA.

Traité d'extradition; signé à la Havane, le 3 octobre 1904.*)

Gaceta Oficial de la República de Cuba.

His Excellency, the President of the Republic of Cuba, and His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, having determined by common consent to conclude a Treaty for the extradition of criminals, have accordingly named as their Plenipotentiaries:

His Excellency, the President of the Republic of Cuba, Señor Carlos E. Ortíz y Coffigny, Secretary of State and Justice, and His Majesty the King of the United Kingdom of Great Britain and Ireland, Lionel E. G. Carden, Esq., Minister Resident of Great Britain in Cuba; who

*) Les ratifications ont été échangées à la Havane, le 10 janvier 1905.

after having exhibited to each other their respective full powers and found them in good order and due form, have agreed upon the following Articles:

Article I.

The High contracting Parties engage to deliver up to each other, under certain circumstances and conditions stated in the present Treaty, those persons who, being accused or convicted of any of the crimes or offences enumerated in Article II, committed in the territory of the one Party, shall be found within the territory of the other Party.

Article II.

Extradition shall be reciprocally granted for the following crimes or offences:

1. Murder, or attempt or conspiracy to murder.
2. Manslaughter.
3. Administering drugs or using instruments with intent to procure the miscarriage of women.
4. Rape.
5. Carnal knowledge or any attempt to have carnal knowledge of a girl under the age of puberty, according to the laws of the respective countries.
6. Indecent assault.
7. Kidnapping and false imprisonment, child stealing.
8. Abduction.
9. Bigamy.
10. Maliciously wounding or inflicting grievous bodily harm.
11. Assault occasioning actual bodily harm.
12. Threats, by letter or otherwise, with intent to extort money or other things of value.
13. Perjury, or subornation of perjury.
14. Arson.
15. Burglary, or house-breaking, robbery with violence, larceny, or embezzlement.
16. Fraud by a bailee, banker, agent, factor, trustee, director, member or public officer of any company.
17. Obtaining money, valuable security, or goods by false pretences; receiving any money, valuable security, or other property, knowing the same to have been stolen or unlawfully obtained.
18. a) Counterfeiting or altering money or bringing into circulation counterfeited or altered money.

b) Knowingly making without lawful authority any instrument, tool, or engine adapted and intended for the counterfeiting of the coin of the realm.

c) Forgery, or uttering what is forged.

19. Crimes against bankruptcy law.
20. Any malicious act done with intent to endanger the safety of any persons travelling or being upon a railway.

21. Malicious injury to property, if such offence be indictable.

22. Piracy and other crimes or offences committed at sea against persons or things which, according to the laws of the High Contracting Parties, are extradition offences, and are punishable by more than one year's imprisonment.

23. Dealing in slaves in such manner as to constitute a criminal offence against the laws of both States.

Extradition shall also be granted for participation in any of the aforesaid crimes, provided such participation be punishable by the laws of both Contracting Parties.

Extradition may also be granted at the discretion of the State applied to in respect of any other crime for which, according to the law of both the Contracting Parties for the time being in force, the grant can be made.

Article III.

Neither party is obliged to surrender its own subjects or citizens to the other party.

Article IV.

Extradition shall not take place if the person claimed on the part of the Government of Cuba or of His Majesty's Government, has already been tried and discharged or punished, or is awaiting trial in the territory of the Republic of Cuba or in the United Kingdom respectively, for the crime for which his extradition is demanded.

If the person claimed on the part of the Government of Cuba or of His Majesty's Government, should be awaiting trial or undergoing sentence for any other crime in the territory of the Republic of Cuba or in the United Kingdom respectively, his extradition shall be deferred until after he has been discharged whether by acquittal or on expiration of sentence or otherwise.

Article V.

Extradition shall not be granted if exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of the State applying or applied to.

Neither shall it be granted if, according to the law of either country, the maximum punishment for the offence charged is imprisonment for less than one year.

Article VI.

A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he proves that the requisition for his surrender has, in fact, been made with a view to try or punish him for an offence of a political character.

Article VII.

A person surrendered shall in no case be kept in prison or be brought to trial in the State to which the surrender has been made, for any other

crime, or on account of any other matters, than those for which the extradition shall have taken place, until he has been restored, or has had an opportunity of returning to the State by which he has been surrendered.

This stipulation does not apply to crimes committed after the extradition.

Article VIII.

The requisition for extradition shall be made through the Diplomatic Agents of the High Contracting Parties respectively.

The requisition for the extradition of an accused person must be accompanied by a warrant of arrest issued by the competent authority of the State requiring the extradition, and by such evidence as, according to the laws of the place where the accused is found, would justify his arrest if the crime had been committed there.

If the requisition relates to a person already convicted, it must be accompanied by a copy of the Judgement passed on the convicted person by the competent Court of the State that makes the requisition for extradition.

Article IX.

If the requisition for extradition be in accordance with the foregoing stipulations, the competent authorities of the State applied to shall proceed to the arrest of the fugitive.

Article X.

A criminal fugitive may be apprehended under a warrant issued by any competent authority in either country, on such information or complaint, and such evidence, or after such proceedings, as would, in the opinion of the authority issuing the warrant, justify the issue of a warrant if the crime had been committed or the person convicted in that part of the dominions of the two Contracting Parties in which the said authority exercises jurisdiction; provided, however, that in the United Kingdom the accused shall, in such case, be sent as speedily as possible before a Police Magistrate.

In the Republic of Cuba the Government will decide by Administrative procedure on everything connected with extradition until a special procedure on the subject be established by law.

Article XI.

The extradition shall take place only if the evidence be found sufficient, according to the laws of the State applied to, either to justify the committal of the prisoner for trial, in case the crime had been committed in the territory of the same State, or if extradition is claimed in respect of an offence of which the fugitive has been already convicted, to prove that the prisoner is the person convicted, and that the crime of which he has been convicted is one in respect of which extradition could, at the time of such conviction, have been granted by the State applied to.

Article XII.

In the examinations which they have to make in accordance with the foregoing stipulations, the authorities of the State applied to shall admit

as valid evidence the sworn depositions or the affirmations of witnesses taken in the other State, or copies thereof, and likewise the warrants and sentences issued therein, and certificates of, or judicial documents stating the fact of a conviction, provided the same are authenticated as follows:

1. A warrant must purport to be signed by a Judge, Magistrate, or officer of the other State.

2. Depositions or affirmations, or the copies thereof must purport to be certified, under the hand of a Judge, Magistrate, or officer of the other State, to be the original depositions or affirmations, or to be true copies thereof, as the case may require.

3. A certificate of, or judicial document stating, the fact of a conviction must purport to be certified by a Judge, Magistrate, or officer of the other State.

4. In every case such warrant, deposition, affirmation, copy, certificate, or judicial document must be authenticated, either by the oath of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Minister of the other State; but any other mode of authentication for the time being permitted by the law of the country where the examination is taken may be substituted for the foregoing.

Article XIII.

If the individual claimed by one of the High Contracting Parties in pursuance of the present Treaty, should be also claimed by one or several other Powers on account of other crimes or offences committed upon their respective territories, his extradition shall be granted to the State whose demand is earliest in date.

Article XIV.

If sufficient evidence for the extradition be not produced within two months from the date of the apprehension of the fugitive, or within such further time as the State applied to, or the proper Tribunal thereof, shall direct, the fugitive shall be set at liberty.

Article XV.

All articles seized which were in the possession of the person to be surrendered at the time of his apprehension shall, if the competent authority of the State applied to for the extradition has ordered the delivery of such articles, be given up when the extradition takes place; and the said delivery shall extend not merely to the stolen articles, but to everything that may serve as a proof of the crime.

Article XVI.

All expenses connected with extradition shall be borne by the demanding State.

Article XVII.

The stipulations of the present Treaty shall be applicable to the Colonies and foreign possessions of His Britannic Majesty, so far as the laws in such Colonies and foreign possessions respectively will allow.

The requisition for the surrender of a fugitive criminal, who has taken refuge in any of such Colonies or foreign possessions, shall be made to the Governor or chief authority of such Colony or possession by the chief Consular officer of the Republic of Cuba in such Colony or possession.

Such requisition may be disposed of, subject always, as nearly as may be, so far as the law of such Colony or foreign possession will allow, to the provisions of this Treaty, by the said Governor or chief authority who, however, shall be at liberty either to grant the surrender or to refer the matter to his Government.

His Britannic Majesty shall, however, be at liberty to make special arrangements in the British Colonies and foreign possessions for the surrender of Cuban criminals who may take refuge within such Colonies and foreign possessions, on the basis, so far as the law of such Colony or foreign possessions will allow, of the provisions of the present Treaty.

Requisitions for the surrender of a fugitive criminal emanating from any Colony or foreign possession of His Britannic Majesty shall be governed by rules laid down in the preceding Articles of the preseut Treaty.

Article XVIII.

The present Treaty shall come into force ten days after its publication in conformity with the forms prescribed by the laws of the High Contracting Parties. It may be terminated by either of the High Contracting Parties by a notice not exceeding one year, and not less than six months.

It shall be ratified, after receiving the approval of the Senate of the Republic of Cuba, and the ratifications shall be exchanged at Havana as soon as possible.

In witness whereof the respective Plenipotentiaries have signed the same, and affixed thereto their respective seals.

Done in duplicate, at Havana, the third day of October, nineteen hundred and four.

(L. S.) *C. E. Ortiz.*
(L. S.) *Lionel Carden.*

7.

ETATS-UNIS, ORANGE.

Traité d'extradition; signé à Washington, le 26 octobre 1896.*)

State Papers. V. XIIC.

The Governments of the United States of America and of the Orange Free State, being desirous to confirm their friendly relations and to promote the cause of justice, have resolved to conclude a Treaty for the extradition of fugitives from justice between the United States of America and the Oranje Free State, and have appointed for that purpose the following Plenipotentiaries:

The President of the United States of America, Richard Olney, Secretary of State of the United States; and

The President of the Orange Free State, Charles D. Pierce, Consul-General of the Orange Free State in the United States;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following Articles:

Art. I. The Government of the United States and the Government of the Orange Free State mutually agree to deliver up persons who, having been charged with or convicted of any of the crimes and offences specified in the following Article, committed within the jurisdiction of one of the Contracting Parties, shall seek an asylum or be found within the territories of the other:

Provided that this shall only be done upon such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his or her apprehension and commitment for trial, if the crime or offence had been there committed.

II. Extradition shall be granted for the following crimes and offences:

1. Murder, comprehending assassination, parricide, infanticide, and poisoning, attempt to commit murder; the killing of a human being, when such act is punishable in the United States as voluntary manslaughter, and in the Orange Free State as manslaughter;

2. Arson:

3. Robbery, defined to be the act of feloniously and forcibly taking from the person of another money or goods, by violence or putting him in fear; burglary, also house-breaking or shop-breaking;

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*) L'échange des ratifications a en lieu à Washington, le 20 avril 1899.

4. Forgery, or the utterance of forged papers; the forgery or falsification of official Acts of Government, or public authorities, or of Courts of Justice, or the utterance of the thing forged or falsified;

5. The counterfeiting, falsifying, or altering of money, whether coin or paper, or of instruments of debt created by National, State, Provincial, or Municipal Governments, or of coupons thereof, or of bank-notes, or the utterance or circulation of the same; or the counterfeiting, falsifying, or altering of seals of State;

6. Embezzlement by public officers; embezzlement by persons hired or salaried, to the detriment of their employers; larceny; and receiving money, valuable securities, or other property, knowing the same to have been stolen, when such act is made criminal by the laws of both countries and the amount of money or the value of the property stolen or received is not less than 200 dollars, or 40 l., receiving in the Orange Free State a diamond or diamonds, cut or uncut, and of whatever value, knowing the same to have been embezzled, stolen, or received;

7. Fraud or breach of trust by a bailee, banker, agent, factor, trustee, or other person acting in a fiduciary capacity or Director or member or officer of any Company, when such act is made criminal by the laws of both countries and the amount of money or the value of the property misappropriated is not less than 200 dollars, or 40 l.;

8. Perjury; subornation of perjury;

9. Rape; abduction; kidnapping;

10. Wilful and unlawful destruction or obstruction of railroads which endangers human life;

11. Crimes committed at sea:

a) Piracy, by the law of nations;

b) Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas, against the authority of the master;

c) Wrongfully sinking or destroying a vessel at sea, or attempting to do so;

d) Assaults on board a ship on the high seas with intent to do grievous bodily harm.

12. Crimes and offences against the laws of both countries for the suppression of slavery and slave-trading.

Extradition is also to take place for participation in any of the crimes and offences mentioned in this Treaty, provided such participation may be punished in the United States as a felony, and in the Orange Free State by imprisonment at hard labour.

III. Requisitions for surrender of fugitives from justice shall be made by the Diplomatic Agents of the Contracting Parties, or in the absence of these from the country or its seat of Government, may be made by the superior Cousular officers.

If the person whose extradition is requested shall have been convicted of a crime or offence, a duly authenticated copy of the sentence of the Court in which he was convicted, or if the fugitive is merely

charged with crime, a duly authenticated copy of the warrant of arrest in the country where the crime has been committed, and of the depositions or other evidence upon which such warrant was issued, shall be produced.

The extradition of fugitives under the provisions of this Treaty shall be carried out in the United States and in the Orange Free State, respectively, in conformity with the laws regulating extradition for the time being in force in the State on which the demand for surrender is made.

IV. Where the arrest and detention of a fugitive are desired on telegraphic or other information in advance of the presentation of formal proofs, the proper course in the United States shall be to apply to the Judge or other Magistrates authorized to issue warrants of arrest in extradition cases, and present a complaint on oath, as provided by the Statutes of the United States.

In the Orange Free State the proper course shall be to apply to the Foreign Office which will immediately cause the necessary steps to be taken in order to secure the provisonal arrest and detention of the fugitive.

The provisional detention of a fugitive shall cease and the prisoner be released if a formal requisition for his surrender, accompanied by the necessary evidence of his criminality, has not been produced, under the stipulations of this Treaty, within two months from the date of his provisional arrest or detention.

V. In no case shall the nationality of the person accused be an impediment to his extradition under the conditions stipulated by the present Treaty, but neither Government shall be bound to deliver its own citizens for extradition under this Convention; but either shall have the power to deliver them up if, in its discretion, it be deemed proper to do so.

VI. A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded be of a political character, or if it shall be made to appear that the requisition for his surrender has, in fact, been made with a view to try or punish him for an offence of a political character.

No person surrendered by either of the High Contracting Parties to the other shall be triable or tried or be punished for any political crime or offence, or for any act connected therewith, committed previously to his extradition.

If any question shall arise as to whether a case comes within the provisions of this Article, the decision of the authorities of the Government on which the demand for surrender is made, which may have granted the extradition, shall be final.

VII. Extradition shall not be granted, in pursuance of the provisions of this Treaty, if legal proceedings or the enforcement of the penalty for the act committed by the person claimed has become barred by limitation, according to the laws of the country to which the requisition is addressed.

VIII. No person surrendered by either of the High Contracting Parties to the other shall, without his consent, freely granted and publicly declared by him, be triable or tried or be punished for any crime or offence committed prior to his extradition, other than that for which he was delivered up, until he shall have an opportunity of returning to the country from which he was surrendered.

IX. All articles seized which are in the possession of the person to be surrendered at the time of his apprehension, whether being the proceeds of the crime or offence charged, or being material as evidence in making proof of the crime or offence, shall, so far as practicable and in conformity with the laws of the respective countries, be given up when the extradition takes place. Nevertheless, the rights of third parties with regard to such articles shall be duly respected.

X. If the individual claimed by one of the High Contracting Parties, in pursuance of the present Treaty, shall also be claimed by one or several other Powers on account of crimes or offences committed within their respective jurisdictions, his extradition shall be granted to the State whose demand is first received: Provided that the Government from which extradition is sought is not bound by Treaty to give preference otherwise.

XI. The expenses incurred in the arrest, detention, examination, and delivery of fugitives under this Treaty shall be borne by the State in whose name the extradition is sought: Provided that the demanding Government shall not be compelled to bear any expense for the services of such public officers of the Government from which extradition is sought as receive a fixed salary; and provided that the charge for the services of such public officers as receive only fees or perquisites shall not exceed their customary fees for the acts or services performed by them had such acts or services been performed in ordinary criminal proceedings under the laws of the country of which they are officers.

XII. The present Treaty shall take effect on the 30th day after the date of the exchange of ratifications, and shall not operate retroactively. On the day on which it becomes operative, however, the Extradition Articles in the Treaty of the 22nd December 1871, between the two High Contracting Parties which has been denounced to take effect in January 1895 shall terminate.

The ratifications of the present Treaty shall be exchanged at Washington as soon as possible, and it shall remain in force for a period of six months after either of the Contracting Governments shall have given notice of a purpose to terminate it.

In witness whereof the respective Plenipotentiaries have signed the above Articles, and have hereunto affixed their seals.

Done in duplicate at the city of Washington, this 28th day of October 1896.

(L. S.) *Richard Olney.*
(L. S.) *Charles D. Pierce.*

8.

ESPAGNE, CONGO.

Convention d'extradition; signée à Bruxelles, le 30 juillet 1895.*)

Sa Majesté la Reine-Régente d'Espagne, au nom de son auguste fils, Sa Majesté le Roi Don Alfonso XIII, et Sa Majesté le Roi des Belges, Souverain de l'État Indépendant du Congo, désirant assurer la répression des crimes et délits, ont résolu de commun accord de conclure une Convention entre le Royaume d'Espagne et l'État Indépendant du Congo et ont nommé à cet effet pour leurs Plénipotentiaires, à savoir:

Sa Majesté la Reine-Régente d'Espagne, Don José Gutierrez de Agüera, Envoyé Extraordinaire et Ministre Plénipotentiaire de Sa Majesté le Roi d'Espagne près Sa Majesté le roi des Belges; et

Sa Majesté le Roi des Belges, Souverain de l'État Indépendant du Congo, M. Edmond van Eetvelde, Secrétaire d'État de l'État Indépendant du Congo;

Lesquels, après s'être communiqué leurs pleins pouvoirs, trouvés en bonne et due forme, ont arrêté les Articles suivants:

Art. I. Les Gouvernements d'Espagne et de l'État Indépendant du Congo s'engagent à se livrer réciproquement les individus qui sont mis en prévention ou en accusation ou condamnés comme auteurs ou complices pour l'un des crimes ou délits énumérés ci-après à l'Article II, commis sur le territoire de l'un des deux États Contractants et qui se seraient refugiés sur le territoire de l'autre.

II. Les crimes et délits sont:

1. Parricide, infanticide, assassinat, empoisonnement, meurtre;

2. Coups portés et blessures faites volontairement, soit avec préméditation, soit quand il en est résulté une infirmité ou incapacité permanente de travail personnel, la perte ou la privation de l'usage absolu d'un membre, de l'œil ou de tout autre organe, ou la mort sans intention de la donner;

3. Bigamie, enlèvement de mineurs, viol, avortement, attentat à la pudeur commis avec violence, attentat à la pudeur commis sans violence sur la personne ou à l'aide de la personne de l'enfant de l'un ou de l'autre sexe âgé de moins de quatorze ans, attentat aux mœurs en excitant, facilitant ou favorisant habituellement, pour satisfaire les passions d'autrui, la débauche ou la corruption de mineurs de l'un ou de l'autre sexe;

4. Enlèvement, recel, suppression, substitution, ou supposition d'enfant, exposition ou délaissement d'enfant;

5. Incendie;

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*) Les ratifications ont été échangées à Bruxelles, le 17 octobre 1895.

6. Destruction de constructions, machines à vapeur on appareils télégraphiques;

7. Association de malfaiteurs, vol;

8. Menaces d'attentat contre les personnes ou les propriétés punissable de la peine de mort, des travaux forcés ou de la réclusion;

9. Attentats à la liberté individuelle et à l'inviolabilité du domicile commis par des particuliers;

10. Fausse monnaie comprenant la contrefaçon et l'altération de la monnaie, l'émission et la mise en circulation de la monnaie contrefaite ou altérée, contrefaçon ou falsification d'effets publics ou de billets de banque, de titres publics ou privés, émission ou mise en circulation de ces effets, billets ou titres contrefaits ou falsifiés, faux en écriture ou dans les dépêches télégraphiques et usage de ces dépêches, effets, billets, ou titres contrefaits, fabriqués, ou falsifiés; contrefaçon ou falsification de sceaux, timbres, poinçons, et marques, à l'exception de ceux de particuliers ou de négociants; usage de sceaux, timbres, poinçons, et marques contrefaits ou falsifiés, et usage préjudiciable de vrais sceaux, timbres. poinçons, et marques;

11. Faux témoignage et fausses déclarations d'experts ou d'interprètes; subornation de témoins, d'experts ou d'interprètes;

12. Faux serment;

13. Concussion, détournements commis par des fonctionnaires publics, corruption des fonctionnaires publics;

14. Banqueroute frauduleuse et fraudes commises dans les faillites;

15. Escroquerie, abus de confiance et tromperie;

16. Abandon par le capitaine, hors les cas prévus par la loi des deux pays, d'un navire ou bâtiment de commerce ou de pêche;

17. Prise d'un navire par les marins ou passagers par fraude ou violence envers le capitaine;

18. Traite des esclaves et ses incidents dans les cas prévus par la législation des deux pays et par les Articles VIII et IX, XLII et suivants de l'Acte Général de la Conférence de Bruxelles du 2 Juillet, 1890;*)

19. Recèlement d'objets obtenus à l'aide d'un des crimes ou délits prévus par la présente Convention.

L'extradition pourra aussi avoir lieu pour la tentative de ces crimes ou délits, lorsqu'elle est punissable par la législation des deux pays contractants.

III. L'extradition ne sera jamais accordée pour les crimes ou délits politiques. L'individu qui serait livré pour une autre infraction aux lois pénales ne pourra, dans aucun cas, être jugé ou condamné pour un crime ou délit politique commis antérieurement à l'extradition, ni pour aucun fait connexe à ce crime ou délit, ni pour aucune infraction antérieure à l'extradition et non comprise dans la présente Convention, à moins qu'après

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*) V. **N. R. G.** 2e s. XVII, 345.

avoir été puni ou définitivement acquitté du fait qui a motivé l'extradition, il n'ait négligé de quitter le pays, ou bien qu'il y retourne de nouveau.

IV. L'extradition ne pourra avoir lieu si, depuis les faits imputés, la poursuite ou la condamnation, la prescription de l'action ou de la peine est acquise d'après les lois du pays dans lequel le prévenu ou le condamné s'est réfugié.

V. Dans aucun cas et pour aucun motif les Hautes Parties Contractantes ne pourront être tenues à se livrer leurs nationaux, sauf les poursuites à exercer contre eux dans leur pays, conformément aux lois en vigueur.

VI. Les prévenus, accusés ou condamnés qui ne sont sujets ni de l'un ni de l'autre des deux États ne seront livrés au Gouvernement qui aura reclamé leur extradition que lorsque l'État auquel ils appartiennent, et qui sera informé de la demande d'extradition par le Gouvernement auquel celle-ci a été adressée, ne s'opposera pas à leur extradition.

Dans le cas de réclamation du même individu de la part des deux États pour crimes ou délits distincts, le Gouvernement requis statuera en prenant pour base la gravité du fait poursuivi ou les facilités accordées pour que l'inculpé soit restitué, s'il y a lieu, d'un pays à l'autre pour purger successivement les accusations.

VII. Si l'individu réclamé est poursuivi ou condamné dans le pays où il s'est réfugié pour un crime ou un délit commis dans ce même pays, son extradition pourra être différée jusqu'à ce que les poursuites soient abandonnées, qu'il soit acquitté ou absous, ou qu'il ait subi sa peine.

VIII. Lorsque le crime ou le délit donnant lieu à la demande d'extradition aura été commis hors du territoire de la partie requérante, il pourra être donné suite à cette demande, pourvu que la législation du pays requis autorise dans ce cas la poursuite des mêmes faits commis hors de son territoire.

IX. L'extradition ne pourra être suspendue, même si elle empêche l'accomplissement d'obligations que l'individu réclamé aurait contractées envers des particuliers, lesquels pourront toutefois faire valoir leurs droits devant les autorités judiciaires compétentes.

X. Les demandes d'extradition seront adressées par la voie diplomatique.

Toutefois, elles pourront, en cas d'urgence, être adressées par le Gouverneur-Général de l'État Indépendant du Congo au Ministre des Affaires Étrangères d'Espagne, et réciproquement par l'autorité supérieure des possessions espagnoles du Golfe de Guinée au Secrétaire d'État du Congo.

XI. L'individu poursuivi pour l'un des faits prévus par l'Article II pourra être livré sur la production du mandat d'arrêt, ou de tout autre acte ayant la même force, décerné par l'autorité étrangère compétente, pourvu que ces actes renferment l'indication précise du fait pour lequel ils auraient été délivrés.

Ces pièces seront, autant que possible, accompagnées du signalement de l'individu réclamé et d'une copie du texte de la loi applicable au fait incriminé.

Dans le cas où il y aurait doute sur la question de savoir si le crime ou délit, objet de la poursuite, rentre dans les prévisions de la présente Convention, des explications seront demandées, et, après examen, le Gouvernement à qui l'extradition est réclamée statuera sur la suite à donner à la demande.

XII. L'individu poursuivi pour l'un des faits prévus par l'article II de la présente Convention sera arrêté préventivement sur l'exhibition d'un mandat d'arrêt, ou autre acte ayant la même force, décerné par l'autorité étrangère compétente et produit par voie diplomatique.

En cas d'urgence, l'arrestation provisoire sera effectuée sur avis, transmis par la poste ou par le télégraphe, de l'existence d'un mandat d'arrêt, à la condition toutefois que cet avis sera régulièrement donné par voie diplomatique au Ministre des Affaires Étrangères du pays où l'inculpé s'est réfugié.

Toutefois, dans ce dernier cas, l'étranger ne sera maintenu en état d'arrestation que si, dans le délai de deux mois, il reçoit communication du mandat d'arrêt délivré par l'autorité étrangère compétente.

L'arrestation de l'étranger aura lieu dans les formes et suivant les règles établies par la législation du Gouvernement auquel elle est demandée.

XIII. L'étranger arrêté provisoirement aux termes du § 1er de l'article précédent, ou maintenu en état d'arrestation aux termes du § 3 du même article, sera mis en liberté si, dans les trois mois de son arrestation, il ne reçoit notification, soit d'un jugement ou arrêt de condamnation, soit d'un acte de procédure criminelle, émané du juge compétent, décrétant formellement, ou opérant de plein droit, le renvoi du prévenu ou de l'accusé devant la juridiction répressive.

XIV. Les objets volés ou saisis en la possession de l'individu dont l'extradition est réclamée, les instruments ou outils dont il se serait servi pour commettre le crime ou délit qui lui est imputé, ainsi que toutes pièces de conviction, seront livrés à l'État réclamant si l'autorité compétente de l'État requis en a ordonné la remise, même dans le cas où l'extradition, après avoir été accordée, ne pourrait avoir lieu par suite de la mort ou de la fuite du prévenu.

Cette remise comprendra aussi tous les objets de même nature qu'il aurait cachés ou déposés dans le pays où il se serait réfugié et qui y seraient trouvés plus tard.

Sont cependant réservés les droits des tiers sur les objets mentionnés, qui doivent leur être rendus sans frais dès que le procès criminel ou correctionnel sera terminé.

XV. Les frais d'arrestation, d'entretien, et de transport de l'individu dont l'extradition aura été accordée, ainsi que ceux de consignation et de transport des objets qui, aux termes de l'Article précédent, doivent être restitués ou remis, resteront à la charge des deux États dans les limites de leurs territoires respectifs.

Les frais de transport ou autres sur le territoire des États intermédiaires seront à la charge de l'État réclamant. Au cas où le transport par mer serait jugé préférable, l'individu à extrader sera conduit au port que désignera le Gouvernement réclamant, aux frais duquel il sera embarqué.

XVI. Il est formellement stipulé que l'extradition par voie de transit sur les territoires respectifs des États Contractants sera accordée sur la simple production, en original ou en expédition authentique, de l'un des actes de procédure mentionnés, selon les cas, dans l'article XI ci-dessus, lorsqu'elle sera requise par l'un des États Contractants au profit d'un Etat étranger, ou par un État étranger au profit de l'un des dits États, liés l'un et l'autre avec l'État requis par un Traité comprenant l'infraction qui donne lieu à la demande d'extradition, et lorsqu'elle ne sera pas interdite par les articles III et IV de la présente Convention.

XVII. Lorsque dans la poursuite d'une affaire pénale non politique l'un des deux Gouvernements jugera nécessaire l'audition de témoins domiciliés dans l'autre État, une Commission Rogatoire sera envoyée à cet effet par la voie diplomatique, et il y sera donné suite en observant les lois du pays où l'audition des témoins devra avoir lieu. Les Gouvernements respectifs renoncent à toute réclamation ayant pour objet la restitution des frais résultant de l'exécution de la Commission Rogatoire.

XVIII. En matière pénale non politique, lorsque la notification d'un acte de procédure ou d'un jugement à un Espagnol ou à un sujet Congolais paraîtra nécessaire au Gouvernement respectif, la pièce transmise diplomatiquement sera signifiée à personne à la requête du Ministère public du lieu de la résidence par les soins d'un officier compétent, et l'original constatant la notification, revêtu du visa, sera renvoyé par la même voie au Gouvernement requérant.

XIX. Si dans une cause pénale non politique la comparution personnelle d'un témoin est nécessaire, le Gouvernement du pays où réside le témoin l'engagera à se rendre à l'invitation qui lui est faite, et, dans ce cas, des frais de voyage et de séjour lui seront accordés d'après les tarifs et règlements en vigueur dans le pays où l'audition devra avoir lieu.

Les personnes résidant en Espagne ou au Congo, appelées en témoignage devant les Tribunaux de l'un ou de l'autre pays, ne pourront être poursuivies ni détenues pour des faits ou condamnations criminels antérieurs, ni sous prétexte de complicité dans les faits objets du procès où elles figureront comme témoins.

Lorsque, dans une cause pénale non politique instruite dans l'un des deux pays, la production des piéces de conviction ou documents judiciaires sera jugée utile, la demande en sera faite par la voie diplomatique, et l'on y donnera suite, à moins que des considérations particulières ne s'y opposent et sous l'obligation de renvoyer les pièces.

Les Gouvernements Contractants renoncent à toute réclamation de frais résultant, dans les limites de leurs territoires respectifs, de l'envoi et de la restitution des pièces de conviction et documents.

XX. Les deux Gouvernements s'engagent à se communiquer réciproquement les arrêts de condamnation pour crimes et délits de toute espèce qui auront été prononcés par les tribunaux de l'un des deux États contre les sujets de l'autre. Cette communication sera effectuée moyennant l'envoi par voie diplomatique du jugement prononcé et devenu définitif au Gouvernement du pays auquel appartient le condamné.

Chacun des deux Gouvernements donnera à ce sujet les instructions nécessaires au autorités compétentes.

XXI. La présente Conventiou ne sera exécutoire que deux mois après l'échange des ratifications, et restera en vigueur jusqu'à l'expiration d'une année à partir du jour où l'une ou l'autre des Parties Contractantes l'aura dénoncée.

XXII. La présente Convention sera ratifiée, et les ratifications en seront échangées à Bruxelles le plus tôt possible.

En foi de quoi les deux Plénipotentiaires l'ont signée en double original et y ont apposé leurs cachets respectifs.

Fait à Bruxelles, le 30e jour du mois de Juillet, 1895.

(L. S.) *J. G. de Agüera.*
(L. S.) *Edm. van Eetvelde.*

9.

FRANCE, PAYS-BAS.

Convention d'extradition; signée à Paris, le 24 decembre 1895.*)

Publication officielle du Royaume des Pays-Bas.

Sa Majesté la Reine des Pays-Bas et, en son nom, Sa Majesté la Reine-Régente du Royaume et le Président de la République Française, ayant résolu, d'un commun accord, de conclure une nouvelle Convention pour l'extradition les malfaiteurs, ont nommé à cet effet pour leurs Plénipotentiaires, savoir:

Sa Majesté la Reine-Régente du Royaume des Pays-Bas, M. le Chevalier de Stuers, Envoyé Extraordinaire et Ministre Plénipotentiaire de Sa Majesté la Reine des Pays-Bas près le Gouvernement de la République Française, &c; et

Le Président de la République Française, son Excellence M. Berthelot, Sénateur, Ministre des Affaires Etrangères, &c.;

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*) Les ratifications ont été échangées à Paris, le 12 avril 1898.

Lesquels, après s'être communiqué leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus des Articles suivants:

Art. I. Le Gouvernement des Pays-Bas et le Gouvernement de la République Française s'engagent à se livrer réciproquement, d'après les règles déterminées par les dispositions ci-après, les individus inculpés ou condamnés à raison de l'un des faits ci-après énumérés, commis sur le territoire de l'État requérant.

Les nationaux respectifs sont exceptés de l'extradition. Toutefois, s'il s'agit d'une personne qui aurait acquis la nationalité Française depuis l'infraction dont elle est inculpée ou pour laquelle elle a été condamnée dans les Pays Bas, cette circonstance n'empêchera pas la recherche, l'arrestation et l'extradition de cette personne conformément aux stipulations du présent Traité.

S'il s'agit d'une personne qui aurait acquis la nationalité Néerlandaise depuis l'infraction dont elle est inculpée ou pour laquelle elle a été condamnée en France, cette circonstance n'empêchera pas la poursuite devant la juridiction Néerlandaise compétente, conformément aux dispositions de l'Article 5 du Cole Pénal des Pays-Bas, tant que ces dispositions resteront en vigueur.

Lorsque le fait motivant la demande d'extradition aura été commis hors du territoire du Gouvernement requérant, il sera donné suite à cette demande si la législation du pays requis autorise la poursuite du même fait commis hors de son territoire, à moins que l'extradition ne soit demandée de ce chef par le Gouvernement d'un pays tiers où le fait à été commis.

II. Les infractions pour lesquelles il y aura lieu à extradition sont les suivantes:

1. Assassinat, meurtre, empoisonnement, que ces crimes soient commis contre le Chef de l'État, le Souverain, l'Héritier du Trône, ou toute autre personne, pourvu que le crime n'ait pas un caractère politique; parricide, infanticide commis avec préméditation;

2. Menace faite, par écrit et sous une condition déterminée, de l'un des attentats suivants:

Violences publiques à forces réunies contre les personnes ou contre les propriétés, viol, attentat à la pudeur, meurtre, sévices graves, incendie;

3. Avortement;

4. Sévices commis volontairement, soit avec préméditation, soit quand il en est résulté une infirmité ou incapacité permanente de travail personnel, la perte ou la privation de l'usage absolu d'un membre, de l'œil ou de tout autre organe, une mutilation grave ou la mort sans intention de la donner;

5. Viol, attentat à la pudeur et attentat au mœurs punissables dans les deux pays et prévus par les Articles 243 à 247, 250 du Code Pénal des Pays-Bas et par les Articles 331 à 334 du Code Pénal Français;

6. Bigamie;

7. Enlèvement, recel, suppression, substitution, ou supposition d'un enfant;

8. Enlèvement de mineurs;

9. Contrefaçon ou altération de monnaies, de papier-monnaie, ou de billets de banque, entreprise dans le but d'émettre ou de faire émettre ces monnaies, ce papier-monnaie ou ces billets de banque, comme non contrefaits et non altérés; mise en circulation de monnaies, du papier-monnaie, ou de billets de banque, contrefaits ou altérés lorsqu'elle a lieu à dessein;

10. Contrefaçon ou falsification de timbres et de marques de l'État ou de marques d'ouvrier exigées par la loi, dans la mesure où les lois des deux pays permettent l'extradition de ce chef;

11. Faux en écriture et usage fait à dessein de l'écriture fausse ou falsifiée, lorsque les lois des deux pays permettent l'extradition de ce chef; détention ou introduction de l'étranger de billets d'une banque de circulation fondée en vertu de dispositions légales, dans le dessein de les mettre en circulation comme n'étant ni faux ni falsifiés, lorsque l'auteur savait au moment où il les a reçus qu'ils étaient faux ou falsifiés;

12. Faux serment;

13. Corruption de fonctionnaires publics dans les cas prévus par l'Article 179 du Code Pénal Français et par les Articles 178, 363, et 364 du Code Pénal des Pays-Bas;

14. Concussion et détournement commis par des fonctionnaires publics ou autres personnes chargées d'un service public permanent ou temporaire;

15. Incendie ou destruction volontaire d'un édifice, incendie et destruction volontaires prévus par les Articles 434, 435, 437 du Code Pénal Français et par les Articles 157, 170, 328, et 352 du Code Pénal des Pays-Bas;

16. Pillage, dégât des denrées ou marchandises, effets, propriétés mobilières, commis en public à forces réunies;

17. Destruction, submersion, échouement, et perte d'un navire, dans une intention coupable et s'il peut en résulter un danger pour autrui;

18. Émeute et insubordination des passagers, à bord d'un navire, contre le capitaine, et des gens de l'équipage contre leurs supérieurs;

19. Le fait, commis à dessein, d'avoir mis en péril un convoi sur un chemin de fer;

20. Vol;

21. Escroquerie;

22. Abus de blanc-seing;

23. Détournement;

24. Banqueroute frauduleuse;

La tentative des infractions prévues ci-dessus et la complicité dans les mêmes infractions donneront également lieu à extradition, lorsqu'elles seront punissables d'après la législation des deux pays.

III. L'extradition ne sera pas accordée tant que l'étranger sera poursuivi dans le pays de refuge pour l'infraction faisant l'objet de la demande d'extradition, ou bien si, à raison de cette infraction, il y a été définitivement condamné, acquitté ou renvoyé de la plainte.

L'extradition n'aura pas lieu si, d'après les lois du pays requis, la prescription de l'action ou de la peine est acquise avant l'arrestation de l'individu réclamé, ou s'il na pas encore été arrêté avant qu'il n'ait été cité devant le Tribunal pour être entendu.

IV. Si l'individu réclamé est poursuivi dans le pays requis ou y a été condamné pour une infraction autre que celle motivant la demande d'extradition, la remise ne sera effectuée qu'après que la poursuite sera terminée ou, en cas de condamnation, après que la peine aura été exécutée.

Toutefois, cette disposition ne fera pas obstacle à ce que cet étranger puisse être livré temporairement pour comparaître devant les tribunaux du pays requérant, sous la condition qu'il sera renvoyé dès que la justice de ce pays aura statué.

V. L'individu extradé ne sera ni poursuivi ni jugé contradictoirement pour une infraction autre que celle ayant motivé l'extradition, à moins d'un consentement spécial donné, dans les conditions de la loi, par le Gouvernement requis.

Sera considéré comme soumis sans réserve à l'application des lois de la nation requérante, à raison d'un fait quelconque antérieur à l'extradition et différent de l'infraction qui a motivé cette mesure, l'individu livré qui aura eu, pendant un mois depuis son élargissement définitif, la faculté de quitter le territoire de cette nation.

VI. Dans le cas où, l'extradition d'un étranger ayant été accordée par l'une des deux Puissances Contractantes à l'autre, le Gouvernement d'un pays tiers solliciterait à son tour de celle-ci la remise du même individu, à raison d'un fait autre que celui ayant motivé l'extradition ou non connexe à ce fait, la Puissance ainsi requise ne déférera, s'il y a lieu, à la demande qu'après s'être assuré du consentement de l'État qui aura primitivement accordé l'extradition.

Toutefois, cette réserve n'aura pas lieu d'être appliquée lorsque l'individu extradé aura eu, pendant le délai fixé par l'Article V, la faculté de quitter le territoire du pays auquel il a été livré.

VII. Aucune personne ne sera livrée si le délit pour lequel l'extradition est demandée est considéré par la partie requise comme un délit politique ou un fait connexe à un semblable délit.

VIII. Toute demande d'extradition sera adressée au Gouvernement requis par voie diplomatique, et sera accompagnée, soit d'un jugement ou d'un arrêt de condamnation, même par défaut ou par contumace, notifié, dans ces derniers cas, suivant les formes qui seraient prescrites par la législation du pays requérant, soit d'un acte de procédure criminelle d'une juridiction compétente, décrétant formellement ou opérant de plein droit le renvoi de l'inculpé devant la juridiction répressive, soit d'un mandat

d'arrêt ou de tout autre acte ayant la même force et décerné par l'autorité judiciaire, pourvu que ces derniers actes renferment l'indication précise du fait pour lequel ils ont délivres et, autant que possible, la date de ce fait.

Les pièces ci-dessus mentionnées devront être produites en original ou en expédition authentique.

Le Gouvernement requérant devra produire, en même temps, la copie des textes des lois applicables au fait incriminé, et, autant que possible, le signalement de l'individu réclamé.

IX. Quand il y aura lieu à extradition, tous les objets saisis pouvant servir à constater l'infraction, ainsi que les objets provenant du délit, seront, suivant l'appréciation de l'autorité compétente, remis à la Puissance réclamante, soit que l'extradition puisse s'effectuer, l'individu réclamé ayant été arrêté, soit qu'il ne puisse y être donné suite, cet individu ayant de nouveau pris la fuite ou étant décédé. Sont réservés toutefois les droits que des tiers, non impliqués dans la poursuite, auraient pu acquérir sur les dits objets.

X. En attendant la demande d'extradition, l'arrestation provisoire du fugitif pourra être requise, soit par la voie diplomatique, soit, du côté des Pays-Bas, par tout officier de justice ou tout Juge d'Instruction (Juge Commissaire), et du côté de la France, par tout Procureur de la République ou Juge d'Instruction.

L'arrestation provisoire est soumise aux formes et aux règles prescrites par la législation du pays requis.

XI. L'étranger arrêté provisoirement aux termes de l'Article précédent sera, à moins que son arrestation ne doive être maintenue pour un autre motif, mis en liberté si, dans les vingt jours qui suivront celui de l'arrestation provisoire, la demande d'extradition par la voie diplomatique, avec remise des documents prescrits par la présente Convention, n'a pas été faite.

XII. Lorsque, dans la poursuite d'une affaire pénale non politique, l'un des Gouvernements jugera nécessaire l'audition de témoins se trouvant dans l'autre État ou tout autre acte d'instruction judiciaire, une Commission Rogatoire sera envoyée à cet effet, par la voie diplomatique, et il y sera donné suite, en observant les lois du pays dans lequel l'audition des témoins ou l'acte d'instruction devra avoir lieu. Lorsqu'il y aura urgence, la Commission Rogatoire pourra être directement adressée par l'autorité judiciaire de l'un des États à l'autorité judiciaire de l'autre État; mais, dans le cas où elle émanerait de l'autorité judiciaire des Pays-Bas, elle devra être accompagnée d'une traduction Française en double exemplaire.

XIII. Si, dans une cause pénale, la comparution personelle d'un témoin est nécessaire, le Gouvernement du pays où réside le témoin l'engagera à se rendre à l'invitation qui lui sera faite. Dans ce cas, des frais de voyage et de séjour, calculés depuis sa résidence, lui seront accordés, d'après les tarifs et règlements en vigueur dans le pays où l'audition devra avoir lieu, sauf le cas où le Gouvernement requérant estimera devoir allouer au témoin une plus forte indemnité.

Aucun témoin, quelle que soit sa nationalité, qui, cité dans l'un des deux pays, comparaîtra volontairement devant les Juges de l'autre pays, ne pourra y être poursuivi ou détenu pour une inculpation ou condamnation antérieure ni sous prétexte de complicité dans les faits objets du procès où il figurera comme témoin.

Lorsque, dans une cause pénale non politique, instruite dans l'un des deux pays, la production de pièces ou documents judiciaires sera jugée utile, la demande en sera faite par voie diplomatique et on y donnera suite, à moins que des considérations particulières ne s'y opposent, et sous l'obligation de renvoyer les pièces.

XIV. Il est convenu que l'extradition, par voie de transit à travers le territoire de l'une des Parties Contractantes, d'un individu livré à l'autre Partie sera accordée sur la simple production, en original ou en expédition authentique, de l'un des actes de procédure mentionnés à l'Article VIII, pourvu que le fait servant de base à l'extradition soit compris dans une Convention conclue entre le pays de transit et le pays requérant, que ce fait n'ait pas un caractère politique, et que l'individu livré ne soit pas un national du pays à traverser. Le transit aura lieu, quant à l'escorte, avec le concours d'agents du pays qui a autorisé le transit sur son territoire; les frais seront à la charge de l'État requérant.

XV. Les Gouvernements respectifs renoncent, de part et d'autre, à toute réclamation pour la restitution des frais d'entretien, de transport et autres qui pourraient résulter, dans les limites de leurs territoires respectifs, de l'extradition des prévenus, accusés ou condamnés, ainsi que de ceux résultant, soit du transport et du renvoi des detenus à confronter, soit de l'envoi et de la restitution des pièces à conviction ou de documents.

La même règle est applicable aux frais d'exécution des Commissions Rogatoires, dans le cas même où il s'agirait d'expertise, pourvu toutefois que cette expertise n'ait pas entraîné plus d'une vacation.

Au cas où le transport par mer serait jugé préférable, l'individu à extrader sera conduit au port que désignera l'Agent Diplomatique ou Consulaire du Gouvernement requérant, aux frais duquel il sera embarqué.

XVI. Les stipulations de la présente Convention seront applicables aux colonies, possessions étrangères, ou pays protégés des deux Hautes Parties Contractantes, sauf à tenir compte des lois spéciales en vigueur dans les dites colonies ou possessions.

La demande d'extradition du malfaiteur qui s'est réfugié dans une colonie, possession étrangère ou pays protégé de l'autre Partie pourra aussi être faite directement au Gouverneur ou fonctionnaire principal de la dite colonie ou possession par le Gouverneur ou fonctiounaire principal de l'autre colonie ou possession, pourvu que les deux pays soient situés, l'un et l'autre, soit dans la partie du monde comprenant l'Asie, l'Australie, et l'Afrique Orientale, soit tous deux en Amérique.

Les dits Gouverneurs ou premiers fonctionnaires auront la faculté ou d'accorder l'extradition ou d'en référer à leur Gouvernement.

Le délai pour la mise en liberté visé à l'Article XI sera de soixante jours.

XVII. Par dérogation à l'Article VIII, tout individu, subissant dans les établissement pénitentiaires de la Guyane Française une peine encourue pour un des faits prévus dans la présente Convention, sera extradé par le Gouverneur de Surinam sur la production du signalement de l'individu et de l'extrait matriculaire, qui indiquera les faits ayant motivé la condamnation ainsi que la juridiction qui l'aura prononcée. Cet extrait sera certifié, au nom du Gouvernement Français, par le chef de l'établissement d'où l'évasion aura eu lieu, et revêtu d'un timbre officiel de l'établissement.

XVIII. La présente Convention entrera en vigueur quatre mois après l'échange des ratifications. A partir de sa mise à exécution les Conventions du 7 novembre 1844,*) du 2 août, 1860,**) et du 3 août, 1860,**) cesseront d'être en vigueur.

La présente Convention sera ratifiée, et les ratifications en seront échangées à Paris aussitôt que possible.

Chacune des Parties Contractantes pourra, en tout temps, mettre fin à la Convention en donnant à l'autre, six mois à l'avance, avis de son intention.

En foi de quoi les Plénipotentiaires respectifs ont signé la présente Convention et y ont apposé leur cachets.

Fait, en double expédition, à Paris, le 24 décembre, 1895.

(L. S.) *A. de Stuers.*
(L. S.) *M. Berthelot.*

10.

ITALIE, RÉPUBLIQUE ARGENTINE.

Traité d'extradition; signé à Rome, le 16 juin 1886.†)

State Paper V. XCII.

His Majesty the King of Italy and his Excellency the President of the Argentine Republic, desiring to secure the repression of crimes committed in their respective territories and jurisdictions, the authors and accomplices of which wish to escape the rigour of the law by going from one country to the other, have resolved to conclude a Convention of Extradition, and for this purpose have nominated for their Plenipotentiaries:

His Majesty the King of Italy, his Excellency General Count C. F. N. de Robilant, &c., Minister for Foreign Affairs; and

*) V. **N. R. G.** VII. 571.
) V. **N. R. G. XVII. 1e P. 271 et 273.
†) Les ratifications out été échangées à Rome, le 14 novembre 1890.

His Excellency the President of the Argentine Republic, Dr. A. del Viso, &c., Argentine Minister at the Quirinal;

Who, having communicated to each other their respective full powers, found in good and due form, have agreed upon the following Articles:

Art. 1. The High Contracting Parties bind themselves by the present Convention to the reciprocal extradition of all persons who have fled from Argentina and taken refuge in Italy, or who have fled from Italy and taken refuge in Argentina, who have been prosecuted or convicted by the Tribunals of that State in whose territory they had committed or had been accomplices in any of the crimes mentioned in Article VI of the present Convention.

When the offence has been committed in the territory of a third Power, the extradition can still be carried out in those cases in which the legislation of the State, from which it is demanded, allows prosecution for offences committed outside its territory.

II. In the dispositions of the preceding Article are not included citizens originally subjects of the country in which they have taken refuge, nor those who had been naturalized before the perpetration of the crime.

In such cases the Government in whose territory the offence was committed shall send to the other the documents appertaining to the trial, in order that the delinquent may be tried according to those laws.

III. If the individual whose extradition is demanded, in conformity with the present Convention, by one of the High Contracting Parties, should be also claimed by another or other Governments with whom Conventions of this kind have been concluded, in consequence of other offences committed in their respective territories, he shall be surrendered to the Government in whose territory the graver offence was committed, or in the case of equal gravity to the Government which earliest presents the demand of extradition.

IV. If one of the High Contracting Parties obtain from the other the surrender of a delinquent, it may not in turn surrender him to another Government except with the consent of the other Party.

V. When the accused or convicted person is not of the nationality of either of the Contracting States, the Government to which the demand is addressed can inform thereof that of the country to which the individual claimed belongs, when there exists a Convention of Extradition between them; and if the latter Government claims the accused, in oder to have him tried by its own Tribunals, within the space of three months from the day on which it was advised of the demand of extradition, the Government from which the extradition was demanded can at will surrender the individual claimed to the State in whose territory the offence was committed or to the State of which the accused or condemned is a citizen.

VI. The extradition shall take place in regard to individuals accused or condemned as authors or accomplices of one of the following offences perpetrated or attempted:

1. Voluntary homicide, murder, parricide, poisoning, infanticide;

2. Deliberate wounding by which death is caused without being intended, serious disfigurement, deprivation, mutilation, disablement, serious injury of some member or organ of the body;

3. Rape, ravishment, or any other outrage on public decency if accompanied by violence;

4. Usurpation of civil state, polygamy and feigned marriage;

5. Concealment, abduction, substitution, or reduction of a free person to a state of slavery;

6. Burglary, robbery with violence, extortion, association with malefactors;

7. Arson, damage to railways resulting in danger to life;

8. Peculation, malversation of public money, cozenage („stellionate"), diversion of money, funds, documents and title-deeds of any kind of public or private persons on the part of persons to whose care they were intrusted, or who are partners or employés in the establishment where the offence was committed;

9. Forgery, uttering, alteration of coins or bonds having legal currency in the respective countries, as also their importation and introduction. Fabrication, importation, sale and use of instruments for the manufacture of false coins, forging money, policies or any other title of the public debt, bank notes or any paper circulating as money; falsification of diplomas or official documents, seals, postage stamps, stamping machines, dies, or any other State seal; use, importation, and sale of such forged articles; falsification of public and private writings, letsers of change or other commercial titles, and use of such falsified papers;

10. Fraudulent bankruptcy;

11. False witness or perjury in a penal case;

12. Fraud and piracy, including taking possession of a vessel by a person who formed one of the crew by means of fraud and violence.

The extradition shall not, however, be granted when, according to the general principles of penal legislation in force in one of the two countries, there is a purely correctional penalty for such an offence committed or attempted.

VII. From the present Convention are excluded political offences and offences connected with political persons.

Individuals whose extradition had been granted cannot be tried or punished for political offences committed before their extradition, nor for acts connected therewith. Nor can they be tried or punished for any other common offence committed prior to the demand of extradition although included in the present Convention, if it has not formed the subject of the demand, unless the other Government consents thereto, or unless the accused, having been definitely set at liberty, has neglected to leave the country within three months, or, having left it, has thereafter returned thither.

VIII. Extradition shall not be granted when, according to the law of the State requesting it, or according to that of the country in which the

culprit has taken refuge, exemption from the penal action or the punishment has been acquired by lapse of time.

IX. The objects taken from or found in the possession of culprits, the instruments and tools used for the perpetration of the offence as also any proof of injury shall always be handed over not only when the extradition takes place, but also when it cannot be carried out owing to the death or the flight of the accused.

Nevertheless, the rights of third persons over the objects mentioned shall be respected, and such objects shall be restored without expense, when the trial is at an end.

X. The individuals claimed, who have been tried for offences committed in the country in which they have taken refuge, will not be handed over except after sentence has been pronounced, and, if convicted, after having undergone the punishment to which they have been condemned.

Those who have already been convicted for offences committed in the country in which they have taken refuge shall not be handed over until their sentence has been carried out.

The temporary surrender of an individual who is under trial, or who has not completed his punishment, may, nevertheless, be demanded for the sole purpose of bringing him before the Courts of the State which has demanded him, and on condition that he be sent back immediately after.

XI. The extradition shall not remain suspended owing to the fact that the individual is forbidden to leave the country, nor because he has contracted obligations with private persons which cannot be fulfilled at the time of his surrender to the Government claiming him.

The persons so interested are free to claim their rights before the competent authorities.

XII. The demand for extradition shall be transmitted through the diplomatic channel, and accompanied by the following documents:

1. The sentence notified in the form prescribed by the legislation of the State, in the case of a condemned person, or the warrant of arrest or other equivalent deed, emanating from the competent Tribunals, with the exact designation and the date of the offence on which the warrant was issued, in the case of an accused person; these documents will be presented in original or in authentic copy;

2. All date and antecedents necessary to prove the identity of the person whose surrender is demanded;

3. Copy of the legal dispositions applicable to the charge according to the legislation of the State demanding the extradition.

XIII. When, in the course of a non-political penal action, one of the two States deems it necessary to have the depositions of witnesses residing in the other or any other judicial document, a Commission will be sent for that purpose.

XIV. Both parties renounce all claim for a repayment of expenses incurred in executing such Commissions, which shall be transmitted in the language of the State demanding the extradition.

XV. If, in a penal action in the course of trial before the Magistrates of one of the two Contracting Parties, the examination of witnesses residing in the territory of the other is necessary, writs shall be sent, and shall be notified to the other Government.

When the witnesses consent to go they shall receive from the Government demanding the extradition the necessary travelling and maintenance expenses according to the dispositions of the Penal Tariff in force in the place whither they are summoned to give evidence.

They cannot be proceeded against nor punished for any kind of offence which they had committed beforehand in the place where they are called on to depose, nor as accomplices in the offence which forms the subject of the trial in which they figure as witnesses.

XVI. The expenses of arrest, custody, maintenance, and transport of the individuals whose extradition has been granted, as also the expenses connected with their trial and those incurred in handing over the objects specified in Article IX, shall be borne by the two Governments within the limits of their respective territories.

The expenses, however, of maintenance and transport by sea between the two States shall be borne by the one which demanded the extradition.

XVII. If, after the lapse of one month from the day on which the accused or condemned person was placed at the disposal of the Diplomatic Agent of the State making the demand in conformity with the present Convention, he has not been handed over to such State, he shall be set at liberty and shall not be re-arrested for the same cause.

The term fixed shall be prolonged if insuperable obstacles, in the opinion of the Government which makes the surrender of the person claimed, should retard his being handed over; but such prolongation shall not exceed the space of one month in any case.

XVIII. The provisional arrest of an individual on trial for any of the offences set forth in Article VI may be carried out by virtue of a notice sent by post or telegraph stating that there exists a warrant of arrest against that individual.

This notice shall be transmitted either by the judicial or political authorities of the one State to those of the other, or from one to the other Government through the diplomatic channel.

XIX. It is understood that a provisional arrest shall only be granted for such persons as are not included in the exceptions laid down in Article II, and on the condition the documents indicated in Article XII are forthcoming.

Such provisional arrest shall take place in the form and according to the rules established by the legislation of the Government applied to, and shall be terminated if, within the space of two months from the moment the accused or convicted person was arrested, the documents necessary for the extradition, according to the dispositions of the present Convention, have not been presented.

In that case the expenses shall be borne by the Government which has issued the warrant, and the accused or condemned person shall not be re-arrested for the same cause.

XX. Save the exceptions set forth in Articles II and VII, the two High Contracting Parties agree to allow the passage of a delinquent whose extradition one of them has obtained from the other.

In this case the authorities shall grant all facilities and the means necessary for preventing the escape of the criminal or the interruption of his journey.

XXI. The two Governments shall take the necessary steps to obtain from their respective Tribunals, at least every six months, summary extracts or special accounts of every sentence pronounced against citizens of the other State.

These summary extracts or special accounts shall contain all the indications indispensable to establish the personal identity of the person convicted, his place of origin, the nature of the offence imputed to him, and the nature and extent of the punishment inflicted on him.

They shall be sent gratuitously to the Diplomatic Representative of the other State, to be then forwarded and deposited in the chancery of the competent Tribunal.

XXII. The present Convention shall come into effect on the day on which the ratifications shall be exchanged, and shall continue in force until one year from the day on which one or the other of the two Governments shall have denounced it.

The exchange of the ratifications shall take place in Rome in the shortest time possible.

In testimony whereof the respective Plenipotentiaries have signed the present Convention, and have affixed their seals thereto.

Done in Rome, in duplicate, on the 16th day of June 1886.

(L. S.) *C. Robilant.*
(L. S.) *A. del Viso.*

11.

AUTRICHE-HONGRIE, URUGUAY.

Traité d'extradition; signé à Monte Video, le 25 juin 1887.*)

Reichs-Gesetzblatt.

Seine Majestät der Kaiser von Österreich, König von Böhmen, &. und Apostolischer König von Ungarn, und seine Exzellenz der konstitutionelle Präsident der Republik Oriental von Uruguay sind übereingekommen, einen Vertrag wegen Auslieferung von Verbrechern zu schliessen, und haben zu diesem Behufe zu Ihren Bevollmächtigten ernannt:

Seine Majestät der Kaiser von Österreich, Apostolischer König von Ungarn, Herrn Manuel Freiherrn von Salzberg, seinen bei der Republik Oriental von Uruguay akkreditierten Ministerresidenten; und

Seine Exzellenz der konstitutionelle Präsident der Republik Oriental von Uruguay, Herrn Dr. Julius Herrera y Obes, seinen Staatssekretär, Minister des Innern und interimistischen Minister des Äussern,

welche, nachdem sie sich ihre Vollmachten mitgeteilt und dieselben in guter und gehöriger Form befunden, die nachfolgenden Artikel vereinbart haben:

Art. I. Die hohen vertragschliessenden Teile verpflichten sich in Gemässheit der Bestimmungen dieses Vertrages, sich gegenseitig jene Individuen auszuliefern, welche von den Gerichten eines der vertragschliessenden Teile wegen einer der im Artikel III bezeichneten strafbaren Handlungen beschuldigt, verfolgt werden oder verurteilt sind, wenn die strafbare Handlung ausserhalb des Gebietes jenes Staates begangen wurde, der um die Auslieferung ersucht wird.

Wenn die strafbare Handlung, wegen welcher die Auslieferung begehrt wird, ausserhalb des Gebietes des die Auslieferung begehrenden Staates begangen worden ist, so kann die Auslieferung zugestanden werden, wenn die Gesetzgebungen des die Auslieferung begehrenden und des um die Auslieferung angegangenen Staates die Verfolgung von strafbaren Handlungen solcher Art auch dann zulassen, wenn sie im Auslande begangen wurden.

II. Ein österreichischer oder ungarischer Staatsangehöriger wird von Österreich oder Ungarn nie an die Regierung von Uruguay und ein Angehöriger der Republik Oriental von Uruguay von dieser nie an Österreich oder Ungarn ausgeliefert werden.

Wenn die strafbare Handlung, wegen welcher die Auslieferung begehrt wird, ausserhalb des Gebietes der vertragschliessenden Teile begangen

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*) Les ratifications ont été échangées à Monte Video le 29 août 1896.

worden ist, und die Auslieferung auch von dem Staate, in dessen Gebiete die strafbare Handlung begangen wurde, begehrt wird, so kann die Auslieferung und Übergabe an die Regierung dieses letzteren Staates erfolgen.

III. Die Auslieferung wird wegen der folgenden strafbaren Handlungen zugestanden:

1. Mord und jede andere mit Vorsatz begangene Tötung;

2. vorsätzliche Verletzungen und Beschädigungen von Personen, welche den nicht beabsichtigten Tod herbeiführten oder eine wahrscheinlich unheilbare Krankheit oder eine immerwährende Arbeitsunfähigkeit, die Zerstörung oder gänzliche Unbrauchbarmachung eines Gliedes oder Organes oder eine schwere Verstümmlung;

3. Notzucht oder andere gewalttätige Angriffe auf die Schamhaftigkeit;

4. Polygamie, zweifache Ehe;

5. Verheimlichung, Beseitigung, Verwechslung oder Unterschiebung eines Kindes;

6. vorsätzliche Brandlegung, vorsätzliche Schädigung einer Eisenbahn, welche den Tod oder die Beschädigung eines Bediensteten oder eines Reisenden herbeigeführt hat;

7. Fälschung (Nachmachung, Verfälschung) von Geld, von Assignationen und Schuldverschreibungen des Staates, von Bankbillets oder anderen Werteffekten des öffentlichen Kredits, welche gleich dem Gelde gangbar sind, die Ausgabe, Inverkehrsetzung und der Gebrauch in Kenntnis der Fälschung dieser Gegenstände; die Fälschung von öffentlichen Urkunden, Poststempeln, Siegeln, Punzen und Marken des Staates: der Gebrauch dieser Gegenstände in Kenntnis ihrer Fälschung;

8. Raub (Sachentziehung unter Gewaltanwendung gegen eine Person);

9. Diebstahl (Sachentziehung ohne Gewaltanwendung gegen eine Person), Betrug, Untreue und Unterschlagung, Fälschung von öffentlichen und Privaturkunden, von Wechseln und anderen Handelspapieren, Gebrauch solcher Urkunden in Kenntnis der Fälschung, wenn in diesen Fällen der zugefügte Schaden den Betrag von 1000 fl. ö. W., falls Österreich oder Ungarn die Auslieferung begehrt, und den Betrag von 500 Nationaltaler (pesos nacionales) der Republik Oriental von Uruguay, falls diese die Auslieferung begehrt, übersteigt;

10. Meineid in Strafsachen zum Nachteile des Beschuldigten;

11. Vorsätzliche und schuldbare Handlungen, welche den Untergang, die Strandung, die Zerstörung, die Beschädigung von Schiffen und Fahrzeugen herbeiführen (Baraterie);

12. Meuterei und Widersetzlichkeit der Schiffsmannschaft an Bord des Schiffes gegen den Kapitän oder gegen Vorgesetzte;

13. Betrügerischer Bankerott.

In allen diesen Fällen wird die Auslieferung auch wegen Versuch, Mitschuld und Teilnahme erfolgen, wenn diese Handlungen nach den Gesetzgebungen des die Auslieferung begehrenden und des um die Auslieferung ersuchten Staates strafbar sind.

IV. Die Auslieferung wird auf diplomatischem Wege begehrt werden.

In Ermanglung einer diplomatischen Vertretung wird das Auslieferungsbegehren von dem Auswärtigen Amte des einen Staates unmittelbar an das Auswärtige Amt des anderen Staates gerichtet werden.

Die Auslieferung wird nur zugestanden werden, wenn ein Urteil, ein Anklageakt, ein Haftbefehl oder ein dem Urteil oder Haftbefehl gleichwertiger Akt im Originale oder beglaubigter Abschrift beigebracht wird.

Diese Akte, welche in der Form ausgefertigt sein werden, die durch die Gesetzgebung des die Auslieferung begehrenden Staates vorgeschrieben ist, werden die Bezeichnung der strafbaren Handlung, um welche es sich handelt, sowie der Strafe, mit welcher dieselbe bedroht ist, enthalten und werden nach Möglichkeit von einer Personbeschreibung des auszuliefernden Individuums oder anderen, seine Identität beurkundenden Belegen begleitet sein.

V. In dringenden Fällen kann jeder der vertragschliessenden Staaten unter Bekanntgabe des Vorhandenseins eines Haftbefehls auf dem unmittelbarsten Wege die provisorische Verhaftung des Verfolgten oder Verurteilten verlangen und erhalten, jedoch unter der Bedingung, dass der Akt, auf den sich das Auslieferungsbegehren stützt, innerhalb zweier Monate vom Tage der geschehenen Verhaftung beigebracht wird.

VI. Wenn der Verfolgte oder Verurteilte von der Regierung des Staates, welcher die Auslieferung begehrt hat, innerhalb dreier Monate von dem Tage, als derselbe ihr zur Verfügung gestellt wurde, nicht übernommen worden ist, so wird der Verhaftete in Freiheit gesetzt und kann aus demselben Grunde nicht mehr in Haft genommen werden. In diesem Falle trägt der die Auslieferung begehrende Staat die Kosten.

VII. Wenn die Auslieferung eines Individuums, dessen Auslieferung auf Grund dieses Übereinkommens von einem der vertragschliessenden Teile begehrt worden ist, auch von einem oder mehreren anderen Staaten wegen anderer strafbaren Handlungen begehrt worden ist, so wird er jenem Staate ausgeliefert, in dessen Gebiet er die schwerste strafbare Handlung begangen hat, und wenn die Strafen gleich schwer sind, der Regierung jenes Staates, dessen Ansuchen ein früheres Datum trägt.

VII. In keinem Falle wird die Auslieferung wegen politischen Verbrechens oder Vergehens, oder wegen Handlungen oder Unterlassungen, welche mit solchen Verbrechen und Vergehen in Zusammenhang stehen, stattfinden.

Als politisches Delikt oder als eine mit einem solchen Delikte zusammenhängende Handlung wird ein gegen die Person eines Staatsoberhauptes oder gegen die Mitglieder der Familie eines Staatsoberhauptes verübtes Attentat nicht angesehen, wenn es den Tatbestand des Mordes, des Meuchelmordes oder der Vergiftung begründet.

IX. Der Ausgelieferte kann in keinem Falle in dem Staate, an welchen er ausgeliefert wurde, wegen eines politischen Verbrechens oder Vergehens, dass der Auslieferung vorausging, verfolgt oder gestraft werden,

desgleichen nicht wegen einer Handlung oder Unterlassung, die mit einem solchen Delikt in Zusammenhang steht, auch nicht wegen einer in diesem Übereinkommen nicht aufgenommenen strafbaren Handlung.

X. Die Auslieferung wird nicht zugestanden, wenn die Verjährung der Verfolgung oder der Strafe nach den Gesetzen des um die Auslieferung angegangenen Staates eingetreten ist.

Die Auslieferung wird auch nicht zugestanden, wenn der Auszuliefernde in dem Staate, welcher um die Auslieferung ersucht wurde, wegen derselben strafbaren Handlung, die das Auslieferungsbegehren begründet, bereits verfolgt und ausser Verfolgung gesetzt wurde, oder wenn die Verfolgung noch dauert, oder die Strafe bereits abgebüsst ist.

XI. Die Auslieferung findet auch dann statt, wenn der Auszuliefernde in einen Rechtsstreit verwickelt ist, oder wenn er wegen Verpflichtungen, die er gegen Private eingegangen hat, zurückgehalten wird, unbeschadet des Rechtes des Beschädigten, sein Recht vor dem kompetenten Gerichte geltend zu machen.

XII. Wenn der Auszuliefernde in dem Staate, welcher um die Auslieferung angegangen wurde, wegen einer anderen strafbaren Handlung, als die, wegen welcher die Auslieferung begehrt wurde, verfolgt oder zurückbehalten wird, so wird die Auslieferung verschoben, bis die Verfolgung ihr Ende genommen hat, und im Falle der Verurteilung, bis die Strafe vollstreckt oder nachgelassen ist.

XIII. Alle Gegenstände, welche zur Verübung der strafbaren Handlung gedient haben oder welche durch dieselbe erlangt worden sind, ferner welche zur Überweisung dienen können, werden zugleich mit dem Ausgelieferten überschickt werden.

Diese Überschickung findet auch statt, wenn die Auslieferung wegen des Todes oder der Flucht des Auszuliefernden nicht eintreten kann.

Es sind hierbei alle Gegenstände solcher Art inbegriffen, welche der Verfolgte in dem Staate, in den er sich geflüchtet hat, versteckt oder hinterlegt hat, sowie diejenigen, welche erst in der Folgezeit aufgefunden werden. Es werden jedoch dadurch die Rechte Dritter auf diese Gegenstände nicht berührt und es müssen ihnen dieselben, wenn das Strafverfahren beendet ist, kostenfrei zurückgestellt werden.

XIV. Die Kosten, welche durch die Anhaltung, Verhaftung, Verpflegung und den Transport des Individuums, dessen Auslieferung zugestanden wurde, entstehen sowie die Kosten für den Transport der im vorstehenden Artikel bezeichneten Gegenstände werden von den vertragschliessenden Teilen getragen, insoweit sie innerhalb ihres Gebietes auflaufen. Die Kosten des Transportes zur See werden von dem Staate getragen, welcher die Auslieferung begehrt hat.

XV. Wenn in einer, jedoch nicht politischen, strafgerichtlichen Untersuchung einer der vertragschliessenden Teile die Abhörung von Zeugen oder die Vornahme anderer Untersuchungshandlungen im anderen Staate

für nötig erachtet, so wird zu diesem Ende ein Ersuchschreibeu auf dem im Artikel IV vorgezeichneteu Wege gestellt werden, dem in Gemässheit der Gesetze des Staates, dessen Rechtshilfe beansprucht wird, Folge gegeben werden wird.

Die vertragschliessenden Teile verzichten auf den Ersatz der Kosten, welche durch solche Ersuchschreiben veranlasst werden, mit Ausnahme für die Gutachten der Sachverständigen in Handelssachen und in Sachen der gerichtlichen Medizin.

XVI. Die vertragschliessenden Teile erklären, dass die drei Texte des Übereinkommens, nämlich der deutsche, der ungarische und der spanische Text, als gleichmässig authentisch betrachtet werden müssen, und dass, falls sich eine Verschiedenheit zwischen diesen drei Texten vorfinden oder ein Zweifel über die Auslegung irgend einer Stelle vorkommen sollte, der nicht durch Vergleichung des einen Textes mit den beiden übrigen behoben werden kann, die für die Auslieferung des Beschuldigten günstigere Auslegung Geltung haben soll.

XVII. Das gegenwärtige Übereinkommen tritt mit dem Tage seiner Kundmachung, welche nach den in den vertragschliessenden Staaten geltenden Gesetzen stattfinden wird, in Wirksamkeit.

Die Kundmachung wird spätestens sechs Monate nach dem Austausche der Ratifikationen erfolgen.

Jeder der vertragschliessenden Teile hat das Recht, dieses Übereinkommen zu künden, es bleibt jedoch in Geltung bis zum Ablaufe eines Jahres vom Tage der Kündigung.

Dieses Übereinkommen wird ratifiziert, die Ratifikationen werden sobald als möglich in Montevideo ausgetauscht werden.

Urkund dessen haben die beiderseitigen Bevollmächtigten das gegenwärtige Übereinkommen unterzeichnet und demselben ihr Siegel beigedruckt.

So geschehen in Montevideo, am 25. Juni 1887.

(L. S.) *Manuel Freih. v. Salzberg.*
(L. S.) *Julio Herrera y Obes.*

12.

ESPAGNE, VÉNÉZUÉLA.

Traité d'extradition; signé à Caracas, le 22 janvier 1894.*)

State Papers. V. XCII.

Don Alfonso XIII, King of Spain, and in his name Her Majesty the Queen-Regent Dona Maria Cristina, and the Head of the Executive of the Republic of the United States of Venezuela, Señor General Joaquin Crespo, animated with the desire of securing and promoting, by common accord, the well-being and tranquillity of their respective States, of facilitating a proper, prompt, and efficacious administration of justice, of preventing crime and regulating the surrender of criminals who have taken refuge in their respective dominions, have resolved to conclude a Treaty for the extradition of fugitive criminals, and have for this object appointed as their Plenipotentiaries, viz.:

Her Majesty the Queen-Regent of Spain, in the name of the King, her august son, D. Ramiro Gil de Uribarri, Knight of the Royal Distinguished Order of Charles III, Member of various Foreign Orders, Minister Resident in the United States of Venezuela; and

The Head of the Executive of the Republic of the United States of Venezuela, Don Pedro Ezequil Rojas, Minister for Foreign Affairs;

Who, after having communicated to each other their respective full powers, and found them in good and due form, have agreed upon the following Articles:

Art. I. The Governments of Spain and Venezuela agree, under the present Treaty, to deliver up reciprocally such individuals as, having been convicted or being prosecuted by the competent authorities of one of the High Contracting Parties, as perpetrators, aiders, or abettors of any of the crimes hereinafter specified, shall have fled tho the territory of the other.

II. According to the dispositions of the preceding Article all persons shall be surrendered who are accused or convicted of any of the following crimes.

a) Wilful murder, including assassination, parricide, fratricide, poisoning, infanticide, and procuring the miscarriage of women;

b) Attempt at murder;

c) Rape and violation;

d) Desertion of children;

e) Arson;

f) Flooding of fields or houses, or other acts of demolition;

g) Robbery, when it consists of theft of money, securities, documents, or any kind of public or private property, fraudulent robbery on the

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*) Les ratifications ont été échangées à Caracas, le 2 mai 1895.

public highway, in establishments or an inhabited house; and, generally, robbery committed with violence, by scaling walls, boring or breaking;

h) Demolition of Government or other public offices, or of banks and banking houses, savings banks or banks of deposit, and insurance companies, with intent to commit a crime;

i) Attempts by private persons against individual liberty and cases of violation of domicile;

j) Forgery and the disposal of forged documents, whether public or private;

k) The forging and substitution of official acts, documents or telegrams of the Government or of the public service, including those appertaining to Courts of Justice, and the fraudulent use and sale of the same;

l) Counterfeiting money, whether in metal or in paper; falsification of bonds or coupons of the public debt, of bank notes or other public securities, of seals, stamps, dies, and signatures of State or public officials, and the sale, circulation, and fraudulent use of any of the aforementioned articles;

m) The embezzlement of public funds committed within the jurisdiction of either of the two High Contracting Parties by public servants or trustees;

n) Theft committed by any person or persons in receipt of pay, to the prejudice of their superiors and employers;

o) The detention or concealment of persons for the purpose of exacting money or for any other illegal object;

p) Mutilation, blows, and wounds inflicted with premeditation, causing injury or permanent incapacity for work of sight or any other organ, or death, even if caused unintentionally;

q) Tampering with railroads and endangering thereby the lives of passengers, and likewise tampering with telegraphs, docks, and public works;

r) Seduction, indecent assaults with violence, or without violence when against children of either sex, under twelve years of age;

s) Bigamy, polygamy;

t) Piracy — the following shall be sonsidered pirates for the purposes of this Treaty:

1. All who, forming part of the crew of a ship of any nationality, or without nationality, shall capture, under arms, any vessel, or plunder it, or assault persons on board, or attack any town;

2. All who board any vessel, capture it, and voluntarily deliver it over to a pirate;

3. Those who undertake privateering during war between two or more nations, without letters of marque from any of the belligerents, or with letters of marque from two or more of the belligerents on either side;

4. Captains, employers, or any persons forming part of the crew of a ship of war who take possession of her, mutinying against the Government to which the vessel belongs;

u) The concealment, unlawful detention, substitution or corruption of minors. Unlawful assumption of civil status;

v) Fraudulent bankruptcy, as well as fraudulent acts committed in cases of insolvency;

w) Bribery;

x) Abuse of confidence, including the fraudulent misuse of a „blanc-seing.“

y) Embezzlement;

In no case, however, will extradition de conceded when the crime committed or attempted is punishable by imprisonment not exceeding two years.

III. Extradition will not be allowed

a) If the delinquent has suffered or is suffering punishment in the country from which extradition is claimed, in respect of the crime upon which the demand is founded, or has been prosecuted there, and declared not guilty and acquitted, or if he be at the time on trial;

b) On expiration of the time prescribed, according to the laws of the country to which requisition is made, for the institution of criminal proceedings, or for the punishment of the crime on which the demand is founded;

c) Unless the fact of the perpetration of the crime be proved in such a manner, that the accused persons would have been legally arrested and tried according to the laws of the State where they are residing if the crime had been committed within its jurisdiction;

d) For political offences or acts connected with them. It is, however, fully understood that in no case, and under no pretext whatsoever, shall an attempt on the life of the Sovereign or Chief of the State of either of the Contracting Parties, or on the life of any member of their respective families ever be considered as a political offence, if the attempt constitutes the offence of homicide or of poisoning;

e) When it is a case of fugitive slaves, or of criminals who have been in the condition of slaves, or in the case of such persons who, though not having been slaves, have been compelled against their will to take service with a private individual at the time of committing the offence.

IV. It is understood that the stipulations of the present Treaty do not in any way bind either of the two High Contracting Parties to surrender to the other their own subjects or citizens, and that as regards this Article foreigners naturalized in Spain or Venezuela shall not be considered as Spaniards or as Venezuelans if the offence has been committed previous to the date of naturalization.

V. No extradited person shall be proceeded against or punished for any political offences which he may have committed whether they are connected or not with the offence for which he has been extradited. The Government which is requisitioned for the surrender may moreover demand

that a fresh guarantee be given in favour of the accused by official notes, if on account of special political circumstances, there should be reason to believe that action for a political offence might be taken against the person whose extradition is requisitioned.

VI. In consideration of the close ties which unite the two countries, it shall be understood, as a special concession and not as a general principle, that when Spain claims from Venezuela an offender on whom according to the laws of Spain the penalty of death will have to be imposed, extradition shall not be granted without an assurance being given through the diplomatic channel that the penalty in question shall be commuted, whether the case is pending or concluded.

Taking into serious consideration the plans which in various parts of the world have been put into execution for the destruction of society, the High Contracting Parties reserve the right of treating subsequently regarding the measures which should be adopted to assure to society the necessary protection against such attempts.

VII. If the person whose surrender is requisitioned is a foreigner as regards the States of both the High Contracting Parties the Government from whom the requisition is made may inform the Government of the country to whom the offender belongs. Should this Government in turn demand his surrender in order to try him the Government from whom requisition is made may either surrender him to the country on whose territory the crime or offence has been committed, or to the country to whom the offender belongs. Should the person to whom requisition is made by one of the two High Contracting Parties in accordance with the stipulations of this Treaty be also requisitioned by another or by other Governments, the Government from whom requisition is made shall surrender the offender to the country which has first demanded his surrender, if the offences are all of equal gravity. Should his surrender be required on account of offences of different gravity he shall be handed over to the country where the most serious offence has been committed according to the opinion of the Government from whom requisition is made.

Should the existing Extradition Treaties with the Governments which are making the requisition be at variance on this point the provisions of the earliest Treaty shall be followed.

VIII. The requisition for surrender shall be made through the diplomatic channel, and shall be supported by the following documents.

1. The warrant against the accused, or any other equivalent judicial document, cleary setting forth the offences and the penalty which is applicable to them, and also the depositions and documents on which the warrant was founded;

2. A description of the person claimed, in so far as may be possible, so as to facilitate his discovery and arrest and the identification of his person.

IX. The stipulations of the present Treaty shall be applicable to all the foreign or colonial possessions of either of the two High Contracting Parties.

X. If a fugitive offender has been convicted for the offence for which surrender is requisitioned, a properly authorized copy of the sentence of the tribunal which convicted him shall be presented. If the fugitive has been accused but not convicted, a properly legalized copy of the warrant in the country in which the offence has been committed, together with the declarations on which the warrant is founded, and with such evidence and proof as may be deemed sufficient, shall nevertheless be produced.

XI. In cases of urgency, and especially when there is reason to fear that the individual may escape, either of the two Governments acting on a sentence of conviction or on a warrant of arrest, may in the quickest manner possible, even by telegram, demand and obtain the arrest of the accused or convicted person subject to the condition that the required document referred to in Article VIII shall be presented as soon as possible.

XII. If the accused or convicted person has not been handed over by the Diplomatic Agent to the country which demands his surrender within the space of one month, reckoned from the day on which he had been placed at the disposal of the Diplomatic Agent, should the claim for surrender have been made from Cuba or Porto Rico; of two months if the claim has been made from Spain; and of three months if from the Philippines, he shall be discharged from custody and shall not be again detained for the same offence.

XIII. In putting into force the provisions of the present Treaty the extradition of offenders shall be conducted in accordance with the legislation in force in the two countries.

XIV. Stolen articles and such articles as are in the possession of the convicted or accused person, the instruments and tools used in committing the crime or offence, as well as any other proof of the offence, shall be delivered up at the time when the extradition takes place. Such delivery shall take place even when the extradition, after having been granted, cannot be carried out by reason of the escape or death of the guilty person.

This surrender shall also include objects of a similar nature which the accused had hidden or disposed of in the country where he had taken refuge, and which had been since found. The rights of third parties with regard to the said property are nevertheless reserved, and the property shall be returned gratis at the conclusion of the trial.

A similar reservation is stipulated with regard to the right of the Government to whom the requisition is made to retain provisionally the aforementioned property, as long as it is required for the prosecution of the case which has given rise to the demand for extradition, or for any other offence.

XV. The expenses connected with the arrest, detention, examination, and conveyance of the accused until he is surrendered in the port of embarkation shall be paid on his arrival by the Government which has made the requisition.

XVI. In conformity with the provisions laid down in Article IX of the Commercial Treaty now in force between Spain and Venezuela, concluded on the 20th May 1882, the Consuls-General, Consuls, Vice-Consuls, and Consular Agents of each of the two High Contracting Parties shall be authorized to cause the detention, for reshipment and conveyance to their own country, of such officers, sailors, and other persons as form part, in any sense, of the crew of ships of war or merchant-vessels of their country when suspected or accused of desertion.

In virtue of a claim thus justified, the surrender of these deserters cannot be refused unless it be duly proved that at the time of their enlistment they were subjects or citizens of the country from which the extradition is requisitioned. Every assistance and support shall be given for the examination, the capture, and the arrest of the deserters, who shall remain in custody in the prisons of the country at the request and at the charge of the Consuls until they can have them embarked. If, however, there is no opportunity of embarking them within three months of their arrest the deserters shall be set at liberty, and they shall not be again arrested for the same offence.

Should the deserter have committed any offence, his extradition shall be postponed until his sentence has been passed by a competent tribunal and the expiration of that sentence.

XVII. If the individual required be prosecuted, put on trial, or condemned for any crime or offence committed in the country where he has taken refuge, his extradition shall be postponed until the case is decided, or, in case of conviction, until the sentence has expired.

XVIII. Responsibility for civil obligations towards private persons incurred by the individual whose extradition is required shall not hinder his extradition.

XIX. If, for the elucidation of facts, in a non-political criminal case conducted in one of the two contracting countries with regard to a demand for extradition, it may be necessary to take declarations from one or more persons domiciled or resident in the other country, the Government of the country in which the case is being conducted shall send, through the diplomatic channel, a request in the proper form, which shall be enforced by the competent authorities according to the laws of the country where the testimony of the witness is to be taken.

If in a case of this nature it should be necessary to confront the accused with one or more persons detained in the other country, or to obtain documentary evidence or other official papers, the request shall be made through the diplomatic channel, and shall be complied with, provided always that the persons in question come forward voluntarily and that exceptional circumstances do not prevent their dispatch.

The persons detained shall, however, be sent back as soon as possible and the documents in question returned.

The expenses arising from sending persons, documents, or articles from one country to another, as well as those arising from the necessary formalities, shall be borne by each Government within the limits of whose territory the expense was incurred.

XX. Should a subject or citizen of either of the two High Contracting Parties have taken refuge in the territory of the other, having already committed in a third country a crime or offence enumerated in Article II, and should the Government to whom he belongs claim him, his extradition shall be granted if it shall not be possible to try him according to the laws in force in the country where he has taken refuge, and on condition that his surrender shall not be demanded by the Government of the country where he has committed the offence, notwithstanding that he has not been tried or that his sentence has not expired.

A similar course of procedure shall be adopted with regard to a foreigner, who, in the above-mentioned circumstances, has committed such offences against a subject or citizen of one of the two High Contracting Parties, provided always that he belongs to a country whose laws do not conflict with the application of this provision.

XXI. The High Contracting Parties engage to proceed in accordance with their respective laws against the crimes and offences committed by the snbjects and citizens of one Party against the laws of the other from the moment in which the requisition is made, and provided that the crimes and offences fall under one of the categories enumerated in Article II of the present Treaty.

When a person is proceeded against in accordance with the laws of his country on account of a punishable offence, committed in the territory of the other nation, the Government of the latter shall be bound to transmit the reports, the legal documents, the corpus delicti, and any declaration necessary for shortening the proceedings.

XXII. The High Contracting Parties engage reciprocally to notify all sentences passed by the Tribunals of the one against subjects or citizens of the other on account of any crime or offence. The final sentence shall be communicated to the Government of the country to which the convicted person belongs through the diplomatic channel. Each of the two Governments shall give the necessary instructions to this effect to the competent authorities.

XXIII. No person shall be extradited in virtue of this Treaty for any crime or offence committed previous to the echange of ratifications, and he shall not be tried for any other crime or offence than that for which he has been extradited, unless the offence is included under Article II, and has been committed subsequent to the exchange of ratifications and has been included in the requisition.

XXIV. The present Treaty shall remain inforce for five years, and, should neither Government within the period of twelve months before the

expiration of this period give notice of a desire to modify it or to terminate it, it shall be prolonged for another five years, and shall thus be successfully prolonged for periods of five years.

XXV. The High Contracting Parties reserve the right of ratifying the present Treaty within a period of twelve months from the date of its signature. If on account of circumstances independent of the desire of both Governments it should have been impossible to ratify within the given period, a subsequent date shall be agreed upon by an exchange of notes.

XXVI. The ratifications shall be exchanged in the city of Carácas

XXVII. The exchange of ratifications shall be published on the same day, the date having been previously fixed by the two Governments.

The present Treaty shall come into force one month after the publication referred to, which date shall be notified in the same Gazette in which is published the Treaty and its ratifications.

In witness whereof the respective Plenipotentiaries have signed the same in duplicate, and have affixed thereto their seals.

Done at Carácas, the 22nd day of January, in the year of our Lord 1894.

(L. S.) *Ramiro Gil de Uribarri.*
(L. S.) *P. Ezequiel Rojas.*

13.

ITALIE, BULGARIE.

Accord commercial; signé à Sophia le $\frac{28 \text{ février}}{12 \text{ mars}}$ 1897.

Publication officielle.

Les Soussignés,

Dr. C. Stoïloff, Président du Conseil et Ministre des Affaires Étrangères et des Cultes de Son Altesse Royale le Prince de Bulgarie, Grand Cordon de l'Ordre Princier de Saint-Alexandre en brillants, Grand Cordon des Ordres de l'Osmanié et du Medjidié en brillants, &c., d'une part; et

Chevalier Jules Silvestrelli, Agent Diplomatique et Consul-Général de Sa Majesté le Roi d'Italie en Bulgarie, Officier des ses Ordres de Saint-Maurice et Lazare et de la Couronne d'Italie, d'autre part;

Dûment autorisés par leurs Gouvernements respectifs, sont convenus de ce qui suit:

Art. I. Les marchandises Italiennes importées en Bulgarie et les marchandises Bulgares importées en Italie jouiront, respectivement et sans conditions, du traitement de la nation la plus favorisée. Ce traitement

de la nation la plus favorisée se réfère aux droits de douane, d'octroi, et d'accise, aux droits de toute autre espèce, ainsi qu'aux frais, modes et facilités de transport.

II. Les sujets Italiens en Bulgarie et les sujets Bulgares en Italie jouiront d'une pleine liberté et des mêmes droits et facilités dont jouissent les nationaux respectifs et les sujets des nations les plus favorisées dans tout ce qui concerne l'exercise du commerce, de l'industrie, des professions, et des métiers. Cette disposition ne se réfère pas, en Italie, aux cas spécialement contemplés par les lois, et, en Bulgarie, aux pharmaciens, aux courtiers, au colportage, au commerce, et aux professions exercées exclusivement en ambulant, aux cabaretiers de village, à l'exception des villages situés près de centres d'ouvriers ou le long des lignes de chemins de fer en construction ou en réparation, où les sujets Italiens seront libres d'ouvrir des cabarets, en s'acquittant de la taxe relative, d'après la loi en vigueur.

Les voyageurs de commerce devront être munis d'une carte de légitimation industrielle conforme au modèle annexé au Traité entre l'Autriche-Hongrie et la Bulgarie du 9/21 décembre, 1896. Ces cartes seront délivrées par les autorités des deux pays qui seront désignées par les Gouvernements respectifs.

III. Le Gouvernement Italien consent, pour la durée du présent accord, que les marchandises d'origine ou de manufacture Italienne acquittent à leur entrée en Bulgarie les droits de douane, d'octroi, et d'accise indiqués dans l'Annexe (A) et dans le Protocole Final du Traité susmentionné entre l'Autriche-Hongrie et la Bulgarie du 9/21 décembre, 1896, sauf toutes les réductions accordées ou qui seront accordées à d'autres Puissances, et à l'exception des articles suivants, qui payeront les droits ci-dessous mentionnés:

Droits de Douane.

Articles.	Unités.	Droits.
Chapeaux en feutre	Ad valorem	12 pour cent.
Chapeaux de paille	„	12 „
Fruits frais	„	$10^1/_2$ „
Pâtes alimentaires	„	$10^1/_2$ „
Pistaches, arachides, noix, noisettes, amandes de toute sorte	„	$10^1/_2$ „
Fromages: parmigiano, gorgonzola, pecorino, cacio cavallo, fontina, provolone, stracchino	„	12 „

Droits d'Accise.

Allumettes en cire, 50 fr. par 100 kilog.

Le riz, les pâtes alimentaires, les fruits frais, les fruits secs, les fromages, le cuir pour semelles resteront exempts de droits d'accise.

IV. Le vermouth sera traité comme vin et non comme liqueur, en ce qui concerne l'acquittement des droits de douane, d'octroi, et d'accise.

V. Le sel marin et le sel gemme seront traités ainsi qu'il est fixé dans la Loi du 20 décembre, 1894, mais le Gouvernement Princier s'engage à ne pas accorder de privilèges à d'autres nations relativement à l'introduction du sel marin et du sel gemme en Bulgarie.

VI. Le présent accord entrera en vigueur le 1/13 avril, 1897, et demeurera excécutoire pour une année, pendant laquelle les deux Parties Contractantes s'engagent de négocier pour la conclusion d'un Traité de Commerce définitif.

Fait en double à Sophia, le $\frac{\text{28 février}}{\text{12 mars}}$, 1897.

(L. S.) *G. Silvestrelli.*
(L. S.) *Dr. C. Stoiloff.*

14.

ITALIE, RÉPUBLIQUE DE SAINT-MARIN.

Convention d'extradition; signée à Florence, le 28 juin 1897.*)

State Papers. V. XCII.

His Majesty the King of Italy and the Most Serene Republic of San Marino, having recognized the reciprocal convenience of introducing some modifications into the Convention entered into between them on the 27th March 1872**) and now about to expire, in order to consolidate still more the relations of good neighbourhood and friendship, and to remove every cause of complaint between the two Governments, have for that purpose appointed appropriate Plenipotentiaries, that is to say:

Sis Majesty the King of Italy, his Excellency the Honourable Professor Pasquale Villari, Grand Cross of the Orders of St. Maurice and St. Lazarus and of the Crown of Italy, Cavaliere of the Civil Order of Savoy, and of the Order pour le Mérite of Prussia, Vice-President of the Senate of the Kingdom of Italy, &c.; and

The Republic of San Marino, his Excellency Cavaliere Paolo Onorato Vigliani, Patrician of San Marino, Grand Cross, decorated with the Grand Cordon of the Orders of St. Maurice and St. Lazarus and of the Crown of Italy, &c., Minister of State, First President of the Supreme Court, Senator of the Kingdom of Italy, &c.;

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*) Les ratifications ont été échangées le 31 juillet 1897.
) V. **N. R. G. 2e s. I. 312.

Who, after having communicated to each other their respective full powers, which were recognized in due form, have agreed upon the following stipulations:

Art. I. The relations between the Republic of San Marino and the Kingdom of Italy shall be regulated generally in accordance with the principles of friendship and „bon voisinage", and particularly in accordance with the clauses of the present Convention.

II. The Consular officers duly admitted in the two States will continue to enjoy the same treatment as hitherto.

III. The sentences of the judicial anthorities of the Kingdom of Italy in civil and commercial cases shall be executed in the Republic of San Marino, and those of the judicial authorities of the Republic shall be executed in the Kingdom according to the rules ot procedure established by the respective legislation.

IV. The public acts executed in the Kingdom of Italy shall take effect in the Republic, and those executed in the Republic shall take effect in the Kingdom, in conformity with Article III.

V. Full faith will be given to the acts and agreements of all kinds stipulated before notaries or public officials belonging to one of the two States, which will be executory in the other State without the necessity of their having to undergo any attestation formalities in so far as regards acts and agreements made in Italy other than the attestation at present required of the President of the competent Civil and Penal Tribunal whenever such acts are to take effect in the Kingdom, but beyond the jurisdiction of the place where they were stipulated. As regards acts and agreements made in the territory of the Republic of San Marino, no attestation formalities will be required other than the attestation of the Secretary of State for Foreign Affairs of that State.

VI. The summonses and the notifications of sentences and of judicial acts made in the two States in the interest of the citizens of the two countries shall be executed in the manner prescribed by the local laws of procedure, at the simple request of the interested party.

VII. The two States will interchange Civil State documents by forwarding free of expense, and duly attested, pursuant to Article V, the copies of acts of births, marriages, and deaths registered in their territories, and referring to the citizens of the other State.

In cases of marriage between two persons belonging to two different communes, the act will have to be forwarded in duplicate.

The transmission of the copies of the acts mentioned above will be effected monthly through the King's Attorney of the Italian Tribunal within whose jurisdiction the Office of Civil State is placed, and through the Law Commissioner in San Marino respectively. The said officials will exchange the above-mentioned acts directly between them, and they will transmit the same to the competent Office of Civil State, or to the office acting as such.

It is expressly understood that the transmission or the acceptance of the copies of such acts will not affect questions of nationality.

The Civil State acts asked for by private persons, unprovided with a certificate of destitution, will be subject to payment of the fees leviable in each of the two States, except in cases when the request made by one party to the other is due to some omission or delay in the regular transmission to be effected through the official channel, as set forth in the present Article.

VIII. Italian citizens in the Republic, and San Marino citizens in the Kingdom, shall reciprocally enjoy the benefit of judicial assistance in the same manner as the natives, provided they conform to the law in force at the place where the assitance is demanded.

In all cases the certificate of poverty must be issued to any one demanding assistance by the authority at his usual place of residence, and be duly authenticated by the competent authority. Information may also be required from the authorities of the State to which the person belongs who has made the demand.

Italian citizens in the Republic, and San Marino citizens in the Kingdom, when allowed the benefit of judicial assistance, are of full right relieved from every security or deposit which under any denomination, might be required of foreigners who take legal proceedings against the natives, according to the legislation of the place where the action may be brought.

IX. The judicial authorities of the Kingdom and those of the Republic shall correspond directly with each other as regards everything relating to the letters of re ition in civil and commercial cases with reference to summonses, notifications, or transmission of documents, oaths, interrogations, declarations, examination of witnesses, opinions of experts, and other documents in the proceedings, or in regard to the measures for the execution of the judgments referred to in Article III, or the provisional securities.

The authority of the place where the requisition is to be executed shall provide for the execution, and transmit the documents relative thereto to the authority from which the requisition came.

The expenses necessary for the execution of the requisitions are to be borne by the State that sends them; those connected with the measures for the execution of the aforesaid judgments are to be borne by the interested parties.

With regard to other matters not specified in the present Article, both the judicial authorities, as well as the other autorities and Government officials of the two States, will correspond between them either directly or through the channel of the respective Consuls.

X. The Italian Government and that of the Republic undertake to search for, arrest, and deliver up to each other delinquents or persons indicted as such by the respective judicial authorities for offences which

the Italian laws qualify as crimes, and the laws of San Marino as misdemeanours, upon the following conditions:

1. As regards persons condemned and answering the charge, or condemned in default, the penalty to be inflicted will be not less than two months' imprisonment, or some other lawful corresponding penalty, and for the same period.

2. For persons indicted or accused, the maximum of the penalty applicable to the offence will not be of less than one year's imprisonment, or some other lawful corresponding penalty, and for the same period, whatever the minimum penalty may be.

3. In every case the crime will be punishable also according to the laws of the State to which the demand is made.

4. The offences which the Italian law punishes only because committed in consequence of carelessness, imprudence, or for lack of trade, of professional skill, or for infringement of regulations, orders, or principles, or which the laws of San Marino punih only as offences, are excluded from extradition.

Extradition shall not take place if the offence in respect of which it s demanded is considered by the State making the demand as a political one, or as an action connected therewith.

Attempts against the Chief of a foreign State, or against members of his family, whenever such attempts constitute voluntary homicide, will not be considered as political crimes, or as actions relating thereto.

XI. The demand for extradition shall be made direct by the competent judicial authority to the judicial authority of the other State, with the exhibition of a sentence of condemnation or an act of accusation, a warrant of arrest, or any other document equivalent to a warrant, which must show the nature and gravity of the acts imputed, as well as the provision of the penal law applicable thereto.

The documents shall be sent either in original or in authenticated copies by the competent judicial authority of the country which demands the extradition.

At the same time, information shall be given, if possible, of the personal description of the delinquent demanded, and every other indication available for ascertaining his identity.

It is understood that the demand and the grant of extradition will have to be authorized by the Government of the State in which the judicial authority demands the extradition or consents to it.

XII. In every case, and especially when there is danger of flight, both the judicial and the political authority of the adjoining places are authorized to demand the arrest of the condemned or accused person, on condition of presenting the documents referred to in the preceding Article, in the shortest time possible.

XIII. Extradition will not be applicable to the citizens of the State wherein they may have taken refuge, or where they may have fixed their

domicile for an uninterrupted period of ten years preceding the demand for extradition.

XIV. Naturalization subsequent to the commission of a crime shall not prevent the extradition of the delinquent.

XV. If the delinquent, or the indicted person, be a citizen of the State wherein he has taken refuge, he shall be brought to trial in the latter State and punished according to the laws in force there in cases of offence in respect of which, pursuant to Article X of the present Convention, extradition is allowed, if he be an alien. In cases when the offence is punishable by the said law by imprisonment for a minimum period of less than three years, proceedings will only be instituted upon complaint of the party or upon the demand of the Government upon whose territory the offence was committed.

In addition to the above the acts of procedure which may have been compiled shall be communicated to the party demanding them, and in case of delinquents a copy of the sentence will be forwarded.

XVI. If for the purpose of an action brought in one of the two Contracting States, it should be necessary to confront the accused with delinquents detained in the other State, or to obtain evidence and judicial documents in the possession of the latter, the delivery thereof shall be demanded. When the purpose for which they were delivered has been served, the accused and the documents delivered shall be returned.

The same shall take place in case citizens of the two States shall have been concerned in a crime, and have then returned to the respective territory.

XVII. If one of the Contracting States shall demand from the other the delivery of a delinquent, who is not its subject, nor domiciled therein, and who has committed the crime in the territory of a third State, and against whom the judicial authority of the demanding State is proceeding, the Government applied to reserves the right of complying with the demand or not, taking into consideration the Treaties existing with other States.

In case of a concurrence of demands for extradition, made by the State wherein the crime has been committed, and by that to the injury of which it was committed, the Government applied to reserves the right to estimate the circumstances of the crime, and to give preference to one over the other demand accordingly.

XVIII. The Government which, in accordance with the preceding Articles, is applied to for the delivery of any person accused or condemned, cannot pardon him, nor grant him safe-conduct or impunity, except such safe-conducts as are granted for the proof of other offences, according to the rules of criminal procedure.

The said safe-conducts, and those which may be granted for other purposes, are of no value when the accused or condemned persons are demanded by the other Government.

XIX. The money and all the articles found in possession of the delinquents, or which shall have been disposed of, if they can be found,

and everything else connected with the offence committed, or which may serve to prove it, shall also be delivered up, as well as copies of the documents drawn up before the delivery of the delinquents; for the latter the cost of the writing only shall be paid.

XX. If articles belonging to citizens of the Government applied to should be found in possession of the delinquents, they must be restored to those citizens without any expense, after ownership thereof has been proved, and when they are no longer necessary as evidence of the crime.

XXI. The extradition shall not be granted if after commencement of proceedings, or after condemnation, the delinquent is entitled to exemption from the criminal action or the punishment according to the laws of the State applied to.

XXII. The judicial authorities of the two States are bound to give each other reciprocal aid for the execution of requisitional letters in criminal cases, in conformity with Article IX, paragraphs 1 and 2.

XXIII. All the expenses incurred in the territory of the State applied to, for the maintenance and conveyance of delinquents, of money or other articles, shall be borne by the demanding State.

XXIV. The two Governments undertake to communicate to each other reciprocally, and without expense, the sentences and condemnation given by the respective judicial authorities against the citizens of the other State for any crime which the Italian law qualifies as such, but which the law of San Marino may consider as misdemeanours.

The communication shall be made direct between the said judicial authorities of the two States by sending a copy of the sentence of condemnation when it has been confirmed.

XXV. Italian citizens residing in the Republic of San Marino will be treated as regards the levy and military service on the same footing as the subjects residing in the Kingdom.

XXVI. Every person belonging to the Italian Royal Army or Navy, and likewise every person belonging to the troops of San Marino, who having deserted from the service of the Government to which he belongs shall take refuge in the other State is to be immediately arrested, even without special request, and restored with arms, horses, equipments, and everything he may have taken with him at his desertion.

XXVII. Such deserters, however, shall not be delivered up if they are actual citizens of the State in which they have taken refuge.

XXVIII. All the civil and military authorities of the two Governments shall be bound to look carefully after the deserters from the other State who come within their jurisdiction, and to take the necessary measures for this purpose with the utmost speed, especially to prevent solidiers not provided with a regular passport or bill of route from finding asylum in the territory of the other Contracting Party, and to have them immediately arrested.

XXIX. The maintenance of the deserters and the horses shall be paid for according to the Regulations in force in the respective dominions.

XXX. Every person of one State who shall wilfully have contributed to effect a desertion either by protecting the deserter from the judicial searches, or by favouring his escape, or by affording him shelter, shall be punished with the penalties established by the Military Penal Code of the Kingdom of Italy, to which the Republic declares itself willing to conform its legislation in so far as not to sanction lesser penalties.

This provision also applies to those who shall knowingly harbour a deserter.

XXXI. The respective subjects are forbidden to buy clothing, horses, or any other part of their equipment of the deserters from the troops of the other State.

These articles, wherever found, shall always be considered as stolen goods, and shall be restored to the corps to which the deserter belongs.

XXXII. All the provisions relative to deserters are also applicable to young men comprised in the military levy, and to those who are in any way bound to render personal service to the State, and who, to evade that service, leave the territory of one to take refuge in that of the other Contracting Party.

XXXIII. Each of the Contracting Governments will provide, on condition of reciprocity, that indigent subjects of one of the two States, who may be taken ill in the territory of the other, and may consequently require assistance and treatment, shall be taken care of in the respective hospitals in the same manner as the indigent natives, until they shall be able to go back to their country without danger to their health or to that of others.

No reimbursement of the expenses incurred for the maintenance, the treatment, or the burial of an indigent person, shall be demanded from the Government, from the Commune, nor from any other fund whatever of the country to which the said person belongs.

Nevertheless, the Contracting Governments reserve the right of claiming the reimbursement of the expenses incurred, in case the assisted person himself, or the persons, especially his parents, who are bound to keep him, shall be able to pay the costs incurred for him by the asylum which received him. The two Contracting Governments reciprocally undertake to render all the assistance in their power to promote the succes of the demands for reimbursement in accordance with the rules in force in the respective States.

XXXIV. Mortmain property, that is, religious institutions, parishes, confraternities, congregations, and corporations, are understood to belong to that one of the two States in which such institutions and congregations are established.

XXXV. It is to be understood that passports are no longer required for citizens who travel from one State into the other.

XXXVI. The produce, goods, cattle, manufactures, and merchandize of one of the two States may circulate freely in the other excepting only the articles which constitute monopolies of the two Governments, and those

the production or manufacture whereof is at present, or may be hereafter, subject to a tax in one of the two States.

If these goods be introduced into the State where they are subject to a tax they will be considered as smuggled goods.

The Italian Government and that of San Marino undertake to assist each other with all the means in their power in order to discover and prevent all infringements of the laws of the other Contracting Party relating to the said articles of monopoly or of articles subject to a tax of manufacture.

XXXVII. With regard to the production in the territory of the Republic of the articles which in the Italian State are, or may be, subject to a home tax of manufacture, the Government of San Marino, reserving wat is agreed upon by Article XLIV in respect of gunpowder or other explosive materials, undertakes to prevent excess of production byond the quantity needed for the consumption of the population of San Marino and for exportation beyond the frontiers of the Italian territory.

In the latter event the Government of San Marino undertakes in each case to deliver the said articles to the Agents of the Italian Treasury, who will escort them as far as the frontier.

The Italian Government and that of San Marino will jointly study the measures to be adopted for the control of the production of the aforesaid articles in the Republic.

XXXVIII. The money coined or to be coined by the Republic of San Marino shall also be current in the Kingdom of Italy, provided that the pieces be adapted to the decimal system, and be of the same denomination and weight as the Royal coins.

The Republic of San Marino will employ exclusively the mint in Rome for coining its money.

The coinage of copper money for San Marino is suspended during the whole term of the Convention, and during such term the Republic undertakes not to coin nickel money or other copper coins.

During the term of the Convention the said Republic can coin and issue silver money on the decimal system, provided

a) That the amount of coins of 5 lire shall not in any case exceed the sum of 90,000 lire;

b) That the amount of fractional money having a title of $^{835}/_{1000}$ths shall not in any case exceed the sum of 60,000 lire.

It is understood absolutely that no substitute of coins which the Government of the Republic should, for whatever reason, issue in the shape of bank or State notes, having a free, legal, or forced currency, be legal tender in the kingdom.

XXXIX. Instead of the right of free transit appertaining to the Republic of San Marino on Italian territory for colonial articles, merchandize, and any other goods, and with a view to simplify the operations in the interests of the two Governments, the Italian Government undertakes to make over to the Republic of San Marino a share of the net revenue

of its custom-houses, calculated on the average paid by each citizen of the Kingdom, and in proportion to the number of the inhabitants of San Marino.

The said share shall be paid to the Treasurer or other special delegate of the Republic in the city of Rimini.

XL. In connection with the preceding clause, the number of inhabitants of the Republic of San Marino is set down at 9,000.

The Government of the Republic is, however, empowered to prove at any time in connection with the aforesaid clause, by means of a regular census or other conclusive evidence, that the population has exceeded the above figure.

XLI. The Republic, fully adhering to the principles of the Kingdom of Italy in regard to literary and art property, undertakes to prevent in its territory every reproduction or infringement of talent and art works produced in the Kingdom or protected therein.

XLII. The Republic, fully adhering to the legal enactments regulating industrial property in Italy and the principles of the Convention of Paris of the 20th March 1883, for the protection of industrial property, undertakes to prevent within its territory every infringement of the rights of industrial inventions, of models and drawings of manufacture, as well as infringements of trade-marks, regularly registered or protected in Italy.

XLIII. The obligations undertaken by the Republic of San Marino by Articles XLI and XLII are the same for the Kingdom of Italy towards the Republic in respect of copyrights, or of artistic and industrial rights legally protected within the territory of the Republic.

XLIV. The Republic also undertakes to prevent within its territory the cultivation of tobacco and the manufacture of gunpowder and of all other explosive materials.

The Republic, however, reserves for itself the right to manufacture gunpowder and other explosives proportionally to the Government requirements.

XLV. His Majesty's Government will supply at prime cost every year in the city of Rimini 100,000 kilog. of Servian salt and 9,000 kilog. of tobacco of every quality, of which not more than 4,500 shall be raw or in leaf, and the rest manufactured. The prime cost shall be fixed yearly on the basis of that paid in the preceding year.

If, owing to the introduction in the territory of the Republic of some new manufactory, a larger supply of salt may be required, His Majesty's Government undertakes to provide it at the same prime cost as that charged to the national manufactories. The Government also undertakes to deliver agricultural salt at a reduced price. His Majesty's Government will, besides, supply to the Republic every year in the city of Rimini for the use of the citizens of San Marino 4,000 kilog. of black gunpowder (nitre, sulphur, and coal) for sporting and mining purposes at cost of manufacture, to be fixed on each occasion by the Italian Minister for War.

XLVI. The Republic of San Marino, having every reason to trust that it will never be deprived of His Majesty the King of Italy's protecting friendship for the preservation of its very ancient liberty and independence, declares that it will not accept the protection of any other Power whatever.

XLVII. The present Convention shall be ratified, and the ratifications shall be exchanged as soon as the approval of the Italian Parliament is obtained. It will come into operation from the day on which the ratifications shall be exchanged, and from that date shall continue in force for a period of ten years with tacit renewal from one year to another till denunciation be notified six months previous to expiration.

In faith whereof the respective Plenipotentiaries have signed the present Convention, and have affixed to it their respective seals.

Done at Florence, 28th June 1897.

(L. S.) *Pasquale Villari.*
(L. S.) *P. O. Vigliani.*

15.

FRANCE, LIBÉRIA.

Traité d'extradition; signé à Paris, le 5 juillet 1897.*)

Archives Diplomatiques.

Le Président de la République Française et le Président de la République de Libéria, désireux d'assurer la répression des crimes et délits, ont résolu, d'un commun accord, de conclure un Traité d'extradition et ont nommé pour leurs Plénipotentiaires, savoir:

Le Président de la République Française, son Excellence M. Gabriel Hanotaux, Ministre des Affaires Etrangères de la République Française, Officier de l'Ordre National de la Légion d'Honneur, Grand-Croix de l'Ordre de la Rédemption Africaine, &c.;

Et le Président de la République de Libéria, M. le Baron de Stein, Chargé d'Affaires de la République de Libéria à Paris, Grand-Croix de l'Ordre de la Rédemption Africaine, Commandeur de l'Ordre National de la Légion d'Honneur, &c.

Lesquels, après s'être communiqué leurs pleins pouvoirs, trouvés, en bonne et due forme, ont arrêté les Articles suivants:

Art. I. Le Gouvernement de la République Française et le Gouvernement de la République de Libéria s'engagent à se livrer réciproquement,

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*) Les ratifications ont été échangées à Paris le 15 mars 1900.

d'après les régles établies par le présent Traité, les individus inculpés ou condamnés à raison de l'un des faits ci-après énumérés, commis sur le territoire de l'Etat requérant.

Chaque Gouvernement est libre de refuser l'extradition de ses propres nationaux. Toutefois, cette faculté ne pourra s'exercer à l'égard du fugitif qui, depuis le crime ou le délit dont il est inculpé ou pour lequel il a été condamné, aurait obtenu la naturalisation dans le pays requis.

Lorsque le fait motivant la demande d'extradition aura été commis hors du territoire du Gouvernement requérant, il sera donné suite à cette demande si la législation du pays requis autorise la poursuite du même fait commis hors de son territoire, à moins que l'extradition ne soit demandée et obtenue de ce chef par le Gouvernement du pays tiers où le fait a été commis.

II. Les crimes et délits pour lesquels il y aura lieu à extradition sont les suivants:

1. Assassinat, empoisonnement, parricide, meurtre;
2. Infanticide;
3. Avortement;
4. Sévices commis volontairement, soit avec préméditation, soit quand il en est résulté une infirmité ou incapacité permanente de travail personnel, la perte ou la privation de l'usage absolu d'un membre, de l'œil ou de tout autre organe, une mutilation grave ou la mort sans intention de la donner;
5. Menaces d'un attentat contre les personnes ou les propriétés punissable de peines criminelles;
6. Viol;
7. Attentat à la pudeur avec violence;
8. Attentat à la pudeur sans violence sur un enfant âgé de moins de treize ans;
9. Bigamie;
10. Enlèvement, recel, suppression, substitution ou supposition d'un enfant;
11. Enlèvement de mineurs;
12. Séquestration ou détention illégale;
13. Contrefaçon ou altération de monnaies, de papier-monnaie ou de billets de banque, entreprise dans le but d'émettre ou de faire émettre ces monnaies, ce papier-monnaie ou ces billets de banque comme non contrefaits et non altérés; mise en circulation de monnaies, de papier-monnaie ou de billets de banque contrefaits ou altérés, lorsqu'elle a lieu à desséin;
14. Contrefaçon des sceaux de l'Etat, poinçons, timbres et marques publics ou usage des dits sceaux, poinçons, timbres, et marques publics contrefaits:
15. Faux en écriture et usages frauduleux de l'écriture fausse ou falsifiée;

16. Faux serment, faux témoignage et subornation de témoins;
17. Corruption de fonctionnaire public;
18. Concussion commise par un fonctionnaire public;
19. Incendie volontaire;
20. Destruction ou dégradation de toute propriété mobilière ou immobilière punie de peines criminelles ou correctionnelles;
21. Le fait par tout individu faisant ou non partie d'un bâtiment de mer de le livrer aux pirates;

Le fait par tout individu faisant ou non partie de l'équipage d'un navire ou bâtiment de mer de s'emparer du dit bâtiment par fraude ou violence;

Destruction, submersion, échouement ou perte d'un navire dans une intention coupable;

Révolte par plusieurs personnes à bord d'un navire en mer, contre l'autorité du capitaine ou du patron;

22. Le fait, commis à dessein, d'avoir mis en péril un convoi sur un chemin de fer;
23. Soustraction frauduleuse ou vol;
24. Escroquerie;
25. Abus de blanc-seing;
26. Détournement frauduleux, abus de confiance, extorsion de fonds;
27. Banqueroute frauduleuse;
28. Recel frauduleux d'argent, valeurs ou objets mobiliers provenant d'escroquerie, de vol, d'abus de confiance ou d'abus de blanc-seing;
29. Traite des esclaves dans les cas prévus par la législation des deux pays.

La tentative des crimes ou délits prévus ci-dessus et la complicité dans les mêmes faits donneront également lieu à extradition, lorsqu'elles seront punissables d'après la législation des deux pays.

III. L'extradition ne sera pas accordée si l'étranger est poursuivi dans le pays de refuge pour l'infraction faisant l'objet de la demande d'extradition, ou bien si, à raison de cette infraction, il a été definitivement condamné, acquitté ou renvoyé de la plainte.

L'extradition n'aura pas lieu si, d'après les lois du pays requis, la prescription de l'action ou de la peine est acquise avant l'arrestation de l'individu réclamé, ou s'il n'a pas encore été arrêté avant qu'il n'ait été cité devant le tribunal pour être entendu.

IV. Si l'individu réclamé est poursuivi dans le pays requis ou s'il a été condamné pour une infraction autre que celle motivant la demande d'extradition, la remise ne sera effectuée qu'après que la poursuite sera terminée ou, en cas de condamnation, après que la peine aura été exécutée.

V. L'individu extradé ne sera ni poursuivi ni jugé contradictoirement pour une infraction autre que celle ayant motivé l'extradition, à moins

1. D'un consentement spécial donné par le Gouvernement requis;
2. Que l'extradé ne demande lui-même à être jugé ou à subir sa

peine, auquel cas sa demande sera communiquée au Gouvernement qui l'a livré.

Sera considéré comme soumis sans réserve à l'application des lois de la nation requérante, à raison d'un crime ou délit quelconque antérieur à l'extraditiou et différent du fait qui a motivé cette mesure, l'individu livré qui aura eu, pendant un mois depuis son élargissement définitif, la faculté de quitter le territoire de cette nation.

VI. Dans le cas où l'extradition d'un étranger ayant été accordée par l'une des deux Puissances Contractantes à l'autre, le Gouvernement d'un pays tiers solliciterait à son tour de celle-ci la remise du même individu, à raison d'un fait autre que celui ayant motivé l'extradition ou connexe à ce fait, la Puissance ainsi requise ne déférera, s'il y a lieu, à la demande qu'après s'être assurée du consentement de l'Etat qui aura primitivement accordée l'extradition.

Toutefois cette réserve n'aura pas lieu d'être appliquée lorsque l'individu extradé aura eu, pendant de délai fixé par l'Article V, la faculté de quitter le territoire du pays auquel il a été livré.

Dans le cas de réclamation du même individu, de la part de deux Etats, pour crimes distincts, le Gouvernement requis statuera en prenant pour base la gravité du fait poursuivi ou les facilités accordées pour que l'individu soit restitué, s'il y a lieu, d'un pays à l'autre, pour purger successivement les accusations.

VII. Aucune personne ne sera livrée, si le délit pour lequel l'extradition est demandée est considéré par la partie requise comme un délit politique ou un fait connexe à un semblable délit.

Ne sera par réputé, de plein droit, délit politique ni fait connexe à un semblable délit, l'attentat contre la personne d'un chef de Gouvernement ou contre celle des membres de sa famille; mais le caractère de cet attentat sera apprécié par la partie requise, d'après les circonstances dans lesquelles il aurait été commis.

VIII. La demande d'extradition devra toujours être faite par la voie diplomatique ou consulaire. Toutefois elle pourra être aussi demandée ou accordée par les Gouverneurs des Colonies Françaises de la côte occidentale d'Afrique.

Elle sera accompagnée soit d'un jugement ou d'un arrêt de condamnation même par défaut ou par contumace (notifié, dans ces derniers cas, suivant les formes qui seraient prescrites par la législation du pays requérant), soit d'un acte de procédure criminelle d'une juridiction compétente, décrétant formellement ou opérant de plein droit le renvoi de l'inculpé devant la juridiction répressive, soit d'un mandat d'arrêt ou de tout autre acte ayant la même force et décerné par l'autorité judiciaire, pourvu que ces derniers actes renferment l'indication précise du fait pour lequel ils sont délivrés et, autant que possible, la date de ce fait.

Les pièces ci-dessus mentionnées devront être produites en original ou en expédition authentique; elles seront revêtues du sceau de la juridiction compétente et d'une signature dûment légalisée.

Le Gouvernement requérant devra produire la copie des textes des lois applicables au fait incriminé, et, autant que possible, le signalement de l'individu réclamé.

L'arrestation du fugitif sera opérée et la demande d'extradition sera instruite et examinée suivant la procédure établie par la législation du pays requis.

IX. Quand il y aura lieu à extradition, tous les objets saisis pouvant servir à constater le crime ou le délit, ainsi que les objets provenant de ce fait, seront, suivant l'appréciation de l'autorité compétente, remis à la Puissance réclamante, soit que l'extradition puisse s'effectuer, l'individu réclamé ayant été arrêté, soit qu'il ne puisse y être donné suite, cet individu ayant de nouveau pris la fuite ou étant décédé.

Sont réservés toutefois les droits que les tiers non impliqués dans la poursuite auraient pu acquérir sur les dits objets.

X. En cas d'urgence, l'arrestation provisoire du fugitif pourra être requise par un avis postal ou télégraphique, faisant connaître l'existence d'un mandat d'arrêt et régulièrement transmis, par la voie diplomatique ou consulaire, au Ministre des Affaires Etrangères du pays requis.

L'étranger arrêté provisoirement sera, à moins que son arrestation ne doive être maintenue pour un autre motif, mis en liberté si, dans les six semaines à partir du jour de l'arrestation, la demande d'extradition par la voie diplomatique ou consulaire, avec remise des documents prescrits par la présente Convention, n'a pas été faite.

De même, l'individu amené dans un port d'embarquement aux fins d'extradition sera remis en liberté si, dans un délai de six semaines après qu'il a été mis à la disposition des autorités requérantes, celles-ci ne l'ont pas fait partir.

XI. Les Gouvernements respectifs s'engagent à se prêter leurs bons offices pour faciliter les mesures d'instruction qui peuvent être considérées comme nécessaires à l'occasion de la poursuite de crimes ou de délits non politiques.

XII. Lorsque dans une cause pénale non politique, instruite dans l'un des deux pays, la production de pièces ou documents judiciaires sera jugée utile, la demande en sera faite par voie diplomatique ou consulaire, et on y donnera suite, à moins que des considérations particulières ne s'y opposent, et sous l'obligation de renvoyer les pièces.

XIII. Les Gouvernements respectifs renoncent de part et d'autre à toute réclamation pour la restitution des frais résultant de l'arrestation, de la détention et de l'entretien du fugitif, ainsi que de son transfèrement jusqu'au port où il dévra s'embarquer pour se rendre à sa destination.

La même renonciation s'applique aux frais qu'occasionnerait l'examen par l'autorité administrative ou judiciaire de la demande d'extradition.

XIV. La présente Convention entrera en vigueur quatre mois après l'échange des ratifications, lequel aura lieu à Paris aussitôt que possible.

Chacune des Parties Contractantes pourra en tout temps mettre fin au Traité en donnant à l'autre, six mois à l'avance, avis de son intention.

En foi de quoi les Plénipotentiaires respectifs ont signé le présent Traité et y ont apposé leurs cachets.

Fait à Paris, en double exemplaire, le 5 juillet, 1897.

(L. S.) *G. Hanotaux.*
(L. S.) *Baron de Stein.*

16.

ALLEMAGNE, PAYS-BAS.

Convention concernant l'extradition réciproque des criminels habitant les colonies allemandes et néerlandaises; signée à Berlin, le 21 septembre 1897.*)

State Papers. V. XCII.

Nachdem Ihre Majestät die Königin-Regentin der Niederlande, im Namen Ihrer Majestät der Königin der Niederlande, und Seine Majestät der Deutsche Kaiser, König von Preussen, im Namen des Deutschen Reichs, übereingekommen sind, die gegenseitige Auslieferung der Verbrecher zwischen den Niederlanden, sowie den Niederländischen Kolonien und auswärtigen Besitzungen und den Deutschen Schutzgebieten, sowie den sonst von Deutschland abhängigen Gebieten durch einen Vertrag zu regeln, haben Allerhöchstdieselben zu diesem Zwecke mit Vollmacht versehen, und zwar:

Ihre Majestät die Königin-Regentin der Niederlande, den ausserordentlichen Gesandten und bevollmächtigten Minister Ihrer Majestät der Königin der Niederlande bei Seiner Majestät dem Deutschen Kaiser, König von Preussen, Herrn Jonkheer Dr. Dirk Arnold Wilhelm van Tets van Goudriaan;

Seine Majestät der Deutsche Kaiser, König von Preussen, Allerhöchstihren Wirklichen Geheimen Legationsrat Herrn Michelet von Frantzius;

welche nach gegenseitiger Mitteilung ihrer in guter und gehöriger Form befundenen Vollmachten über folgende Artikel übereingekommen sind:

Art. I. Die Bestimmungen des zwischen den Niederlanden und dem Deutschen Reiche am 31. Dezember 1896 unterzeichneten Auslieferungsvertrags sollen auf die im nachfolgenden Artikel näher bezeichneten von Deutschland abhängigen Gebiete derart Anwendung finden, dass auch die in einem dieser Gebiete innerhalb des Bereichs der daselbst bestehenden Behörden sich aufhaltenden Personen, die wegen einer ausserhalb der be-

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*) Les ratifications ont été échangées à Berlin, le 23 octobre 1897.

zeichneten Gebiete sowie des Gebietes des Deutschen Reichs begangenen Handlung von den Behörden der Niederlande oder der Niederländischen Kolonien und auswärtigen Besitzungen verfolgt werden, und die in den Niederländischen Kolonien und auswärtigen Besitzungen innerhalb des Bereichs der daselbst bestehenden Behörden oder im Königreich der Niederlande sich aufhaltenden Personen, die wegen einer ausserhalb des Gebiets der Niederlande sowie der Niederländischen Kolonien und Besitzungen begangenen Handlung von den Behörden der von Deutschland abhängigen Gebiete verfolgt werden, in Gemässheit der Bestimmungen jenes Vertrags, soweit nicht der gegenwärtige Vertrag etwas Abweichendes festsetzt, gegenseitig auszuliefern sind.

II. Unter den von Deutschland abhängigen Gebieten (Artikel I) sind im Sinne des gegenwärtigen Vertrags zu verstehen:

Die in Afrika, in Neu-Guinea und im westlichen Stillen Ozean belegenen Deutschen Schutzgebiete, Besitzungen und Interessensphären.

III. Zwischen den von Deutschland abhängigen Gebieten in Neu-Guinea und im westlichen Stillen Ozean, nämlich, dem Schutzgebiete der Neu Guinea-Kompagnie und dem Schutzgebiete der Marshall-, Brown-, and Providence-Inseln einerseits und Niederländisch-Indien andererseits soll wegen solcher strafbaren Handlungen, die in Niederländisch-Indien als Seeraub oder gleich dem Seeraube bestraft werden und zugleich nach der Gesetzgebung des betreffenden Deutschen Schutzgebiets eine als Verbrechen oder Vergehen strafbare Gewalttätigkeit gegen Personen oder Sachen oder die Teilnahme an einer solchen oder den strafbaren Versuch einer solchen darstellen, die Auslieferung auch dann stattfinden, wenn diese nicht schon nach Artikel I des Vertrags vom 31. Dezember 1896 begründet ist.

IV. Bei Anwendung des Vertrags vom 31. Dezember 1896 auf die von Deutschland abhängigen Gebiete sollen, wo in jenem Vertrage vom Deutschen Reiche die Rede oder dieses unter der Bezeichnung des ersuchten oder ersuchenden Teiles, Staates oder Landes zu verstehen ist, die bezeichneten Gebiete darunter gleichfalls begriffen sein. Dabei haben als Gesetze und Gesetzgebung, wo der erwähnte Vertrag auf solche verweist, die Gesetze und Gesetzgebung des betreffenden Gebiets zu gelten.

V. An Stelle des ersten Absatzes von Artikel II des Vertrags vom 31. Dezember 1896 soll für die von Deutschland abhängigen Gebiete gelten, dass die Verpflichtung zur Auslieferung aus diesen Gebieten sich nicht auf deren Eingeborene sowie auf Reichsangehörige, und die Verpflichtung der Behörden der Niederlande oder der Niederländischen Kolonien und auswärtigen Besitzungen zur Auslieferung von Personen, die von den Behörden jener Gebiete verfolgt werden, sich nicht auf Niederländer erstreckt.

VI. Die Verpflichtung zur Auslieferung aus den von Deutschland abhängigen Gebieten fällt weg, wenn vor Ausführung der Auslieferung ein Antrag auf Ablieferung der beanspruchten Person nach dem Gebiete des Deutschen Reichs eingeht, dem nach gesetzlicher Vorschrift entsprochen werden muss. Die Bewilligung der Auslieferung aus einem der von

Deutschland abhängigen Gebiete soll stets als unter der Bedingung geschehen gelten, dass ein solcher Antrag auf Ablieferung bis zur Ausführung der Auslieferung nicht eingegangen ist. Es bleibt im Falle der Ablieferung nach Deutschland der Königlich Niederländischen Regierung aber vorbehalten, die demnächstige Auslieferung aus Deutschland auf Grund und nach Massgabe des Vertrages vom 31. Dezember 1896 in Antrag zu bringen.

VII. Die Anträge auf Auslieferung aus einem der von Deutschland abhängigen Gebiete oder an einer dieser Gebiete und auf nachträgliche Ausdehnung solcher Auslieferung sollen, wie im Absatz 1 des Artikels VII des Vertrags vom 31. Dezember 1896 vorgesehen ist, im diplomatischen Wege gestellt werden.

Jedoch können solche Anträge, wenn es sich um eine Auslieferung zwischen Niederländisch-Indien und einem der in Ost-Afrika, in Neu-Guinea und im westlichen Stillen Ozean belegenen, von Deutschland abhängigen Gebiete, nämlich Deutsch-Ost-Afrika, dem Schutzgebiete der Neu-Guinea-Kompagnie und dem Schutzgebiete der Marshall-, Brown-, and Providence-Inseln handelt, auch unmittelbar von dem General-Gouverneur von Niederländisch-Indien bei der obersten Behörde des betreffenden von Deutschland abhängigen Gebiets, die innerhalb dieses Gebiets ihren Sitz hat, und von dieser Behörde bei dem General-Gouverneur von Niederländisch-Indien gestellt werden. Diesem sowie der bezeichneten Deutschen Behörde bleibt es vorbehalten, wenn der bei ihnen unmittelbar gestellte Antrag ihnen zu Zweifeln Anlass gibt, darüber die Entscheidung der vorgesetzten Stelle einzuholen.

VIII. Für die vorläufige Festhaltung tritt an Stelle der im Artikel IX des Vertrags vom 31. Dezember 1896 vorgesehenen zwanzigtägigen Frist in den Fällen, auf die der gegenwärtige Vertrag sich bezieht, eine Frist von drei Monaten.

IX. Der gegenwärtige Vertrag soll ratifiziert, und die Ratificationsurkunden sollen gleichzeitig mit denen zum Vertrage vom 31. Dezember 1896 ausgewechselt werden.

Der Vertrag soll drei Monate nach Austausch der Ratifikationsurkunden in Kraft treten und solange in Kraft bleiben, wie der Vertrag vom 31. Dezember 1896, also ausser Kraft treten, wenn dieser ausser Kraft tritt.

Zu Urkund dessen haben die beiderseitigen Bevollmächtigten den gegenwärtigen Vertrag unterzeichnet und mit dem Abdruck ihrer Siegel versehen.

Ausgefertigt in doppelter Urschrift in Berlin, den 21. September, 1897.

(L. S.) *D. A. W. von Tets von Goudriaan.*
(L. S.) *Michelet von Frantzius.*

17.

PAYS-BAS, RÉPUBLIQUE SUD-AFRICAINE.

Convention concernant l'extradition réciproque des criminels; signée à la Haye, le 9 novembre 1897.*)

Her Majesty the Queen of the Netherlands and in her name Her Majesty the Queen-Regent of the kingdom, and his Excellency the President of the South African Republic, having agreed to conclude a fresh Treaty relating to the extradition of criminals, have to this end appointed the following persons as their Plenipotentiaries:

Her Majesty the Queen-Regent of the Kingdom of the Netherlands, the Honourable Joan Röell, Minister for Foreign Affairs, and Willem van der Kaay, Barrister-at-Law, Minister of Justice; and

His Excellency the President of the South African Republic, Rudolf Abraham Iduard Snothlage, Consul-General of the South African Republic in the Netherlands;

Who, after having exhibited their credentials to each other, which were found to be in good and proper form, have agreed upon the following Articles:

Art. I. The Government of the Netherlands and the Government of the South African Republic bind themselves, in accordance with the provisions enacted in the following Articles, reciprocally to deliver up to each other all persons suspected, accused, or condemned in the case of one or more of the acts hereinafter mentioned, and committed outside of the territory of the Party from whom the extradition is asked, viz.:

1. An attempt on the life of the King, of the reigning Queen, of the Regent, or of the President of the Republic;

2. Murder or manslaughter (including cases of children), parricide, poisoning;

3. Procuring abortion, either by the woman herself or by other persons;

4. Personal violence, so far as the laws of the country from which the extradition is asked allow of extradition on that account;

5. Rape or other act of immorality, so far as the laws of the country from which the extradition is asked sanction extradition on that account;

6. Bigamy.

7. Stealing, carrying off, harbouring, concealing, or substituting a child;

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*) Les ratifications ont été échangées à la Haye, le 19 juin 1896.

8. Coining or forging specie or bank notes, or wilfully bringing into circulation bad money or forged bank notes, in both cases so far as the laws of the country from which the extradition is asked sanktion extradition on that account;

9. Forging seals or marks, so far as the laws of the country from which the extradition is asked sanction extradition on that account;

10. Forging documents or bank paper, and wilfully making use of them, so far as the laws of the country from which the extradition is asked sanction extradition on that account;

11. Perjury, false evidence, bribery of witnesses;

12. Bribery of officials, extortion, embezzlement by officials, so far as the laws of the country from which the extradition is asked permit extradition on that account;

13. Arson, so far as the laws of the country from which the extradition is requested permit extradition on that account;

14. Wilful and illegal destruction of any building, which in whole or in part belongs to another person, so far as the laws of the country from which the extradition is requested permit extradition on that account;

15. Violent attacks on persons or property made with accomplices, so far as the laws of the country from which the extradition is requested permit extradition on that account;

16. Illegally and wilfully sinking, or causing to sink, destroying, or rendering unserviceable a vessel, so far as the laws of the country from which the extradition is claimed permit extradition on that account;

17. Mutiny and resistance of passengers to the captain and of seamen to their superiors in rank;

18. Wilfully causing danger to a railway train;

19. Theft, embezzlement;

20. Swindling;

21. Abuse of a „blanc-seing“;

22. Fraudulent bankruptcy, so far as the laws of the country from which the extradition is claimed permit extradition on that account.

Under the preceding provisions are included attempt and complicity, so far as the laws of the country from which the extradition is requested make them criminal offences.

II. The question whether an act comes within the terms of Article I shall be decided according to the law of the country from which the extradition is requested.

III. Extradition shall not be granted in the case of the offence having been committed in a country other than the Netherlands and the South African Republic, the Government of which asks for extradition.

IV. Extradition shall not be granted, so long as the person claimed is being prosecuted, in the country from which the extradition is granted, for the offence for which the extradition was requested, or in case he has already been found guilty, released from legal proceedings, or acquitted on

the case being tried by the properly qualified Judge of one of the two countries.

V. Extradition shall not be granted if the limit of time prescribed for the prosecution or the punishment of an offence has expired before the arrest of the person, according to the laws of the country from which the extradition is claimed, or, if no arrest has been made, before the summons to the Court, or before the issuing of a warrant.

VI. Extradition shall be granted only on the condition that the person extradited shall not be prosecuted or punished, nor delivered over to another State, for an offence not named in Article I of this Treaty and perpetrated before the extradition, unless he has been allowed a period of one month to leave the country.

Nor shall he be prosecuted or punished for an offence named in the present Treaty and committed before the extradition, but for which extradition has not been granted, without the consent of the Government which has given him up, which, however, if it deems such a course desirable, shall be competent to demand the production of any of the documents mentioned in Article X of the present Treaty. The consent of that Government shall also be required to the extradition of the accused to another country other than that of the two Contracting Parties. The consent shall, however, not be required if the accused of his own free will hall asked to be tried or to undergo his punishment, or if he has not left, within the period aforesaid, the territory of the State to which he has been extradited.

VII. If the person whose extradition is requested is being prosecuted or is undergoing punishment for an offence other than that which was the ground for the request for extradition, his extradition must not be granted before the termination of the prosecution in the country from which the extradition is requested, and in case of his condemnation, until he has undergone his punishment or received his pardon, the provisions in Article XIV being reserved.

VIII. The provisions of the present Treaty do not apply to political offences.

No person who has been extradited on account of an offence named in Article I may therefore in any case be prosecuted or punished in the State to which the extradition has been granted for a political offence committed by him before his extradition, nor for any offence connected with such political offence, unless he has had the opportunity of leaving the country again during the space of one month after the prosecution instituted against him has expired, and in case of his having been found guilty, has undergone the punishment inflicted on him, or has been pardoned.

IX. The extradition shall be applied for through the diplomatic channel, in the Netherlands, to and by the Minister for Foreign Affairs, and in the South African Republic, to and by the State Secretary.

X. No extradition shall be granted except upon the production of the original or of an attested copy of a sentence of condemnation, or of an indictment or of a prosecution at law with warrant for arrest, or of a warrant for arrest issued in the form prescribed by the law of the country which makes the application, provided that the warrant is accompanied by the declarations of witnesses (made either in the presence or in the absence of the accused), from which the declarations and the aforesaid sentences, &c., the State from which the extradition is asked can determine whether the offence in question is a case provided for in the present Treaty.

By attested copies shall be understood the copies of all documents above mentioned attested by an official competent to make such attestations by the law of the country that makes the application.

The documents produced shall, if possible, be accompanied by a description of the person whose extradition is asked for.

XI. No extradition shall be carried out unless the evidence produced, as required in the preceding Article X, affords convincing proof of the offence, according to the laws of the State from which the extradition is requested.

XII. The property seized in the possession of the person claimed shall be given over to the State making the claim, if the competent authority of the State, from which the extradition is requested, has ordered such transfer.

XIII. While awaiting the request for extradition through the channel mentioned in Article IX, the person whose extradition is requested according to the present Treaty, may be temporarily kept in custody by order of the competent Magistrates; in the Netherlands, on the request of a public prosecutor of the South African Republic; in the South African Republic, on the request of any Officer of Justice or of any Judge of Instruction.

These requests shall be made through the diplomatic channel.

The temporary detention is subject to the forms and regulations prescribed by the laws of the State in which it takes place.

If the request for extradition, with the necessary documents, does not arrive within three months after the date of the order for temporary arrest, the person temporarily arrested shall be immediately set at liberty, unless he has, for other reasons, to be kept in custody.

XIV. Whenever in a criminal case the trial or the confrontation of criminals, in temporary custody or undergoing punishment in another State, being foreigners as regards that State, or their appearance in person as witnesses, or information as regards sentences or of documents in the hands of authorities of the other country, shall be judged useful or necessary, the request relating thereto shall be made in accordance with Article IX of this Treaty, unless there are special reasons against such a course, and with the obligation of sending the criminals back immediately

after the termination of the trial, the confrontation of the criminals, or the hearing, and the return also of the documents.

XV. The transport across the territory of one of the Contracting Parties of a person extradited by a third Power to the other party, not belonging to the country through which the transport is effected, shall be allowed, if the country, through which the transport takes place, has an extradition Treaty with such third Power, on the simple exhibition, either of the original or of an attested copy of one of the documents mentioned in Article X of the present Treaty, provided that the offence on which the extradition is grounded is mentioned in that Treaty, and does not come under the provisions by which the extradition is not to be granted, or under the conditions provided in certain cases in this Treaty, and provided that the transport takes place with the co-operation of the authorities of the country which has permitted the transport across its territory.

The cost of the transport shall be defrayed by the State which has applied for the extradition.

XVI. The respective Governments renounce all claim for repayment of the cost of maintenance, of transport, &c., which may be incurred within their boundaries in the extradition of persons, and in the transport and return of persons temporarily extradited, as also in the transmission and returning of papers and documents.

The person to be extradited shall be taken to the port to be agreed upon by the two Governments, and be placed on board be at the cost of the State claiming the extradition.

XVII. The present Treaty, which does not apply to the Colonies, shall come into operation three months after the exchange of the ratifications.

It shall remain in force for six months afther denunciation by one of the two Governments.

It shall be ratified, and the ratifications shall be exchanged as soon as possible.

In token whereof the two Plenipotentiaries have signed and sealed the present Treaty.

Done in duplicate at the Hague, the 9th November 1895.

(L. S.) *J. Röell.*
(L. S.) *van der Kaay.*
(L. S.) *R. A. I. Snothlage.*

18.

CHILI, EQUATEUR.

Traité d'extradition; signé à Quito, le 10 novembre 1897.*)

The Governments of Equator and Chile, animated by the desire to assure the effective execution of penal justice amongst their populations by means of the repression of crimes committed in the territory of either of them by persons who may seek asylum in the other, have resolved to make a Treaty which establishes rules fixed and based on the principles of reciprocity, according to which proceedings must be taken by either of the Contracting Parties for the surrender of criminals claimed by the other; and to this end the said Governments have named Plenipotentiaries, to wit:

His Excellency the President of the Republic of Equator, Señor D. Rafael Gómez de la Torre, Minister for Foreign Affairs; and

His Excellency the President of the Republic of Chile, Señor D. Beltrám Mathieu, Envoy Extraordinary and Minister Plenipotentiary of the said Republic;

Who, after communicating to each other their respective full powers, found complete and in due form, have agreed upon the stipulations contained in the following Articles:

Art. I. The High Contracting Parties engaged to deliver up to each other persons who being accused or condemned in one of the two countries as authors or accomplices of any of the crimes comprehended in the following Article, have taken refuge in the other.

II. Extradition shall only be accorded in case of the commission of an ordinary crime, which is punished, according to the laws of the country applying, with a greater penalty than detention or imprisonment for three years.

III. The demand for extradition shall be presented through the diplomatic channel. In the absence of agents of this category, the same demand shall be put forward by the Consul of the highest rank of the nation claiming extradition authorized to this effect.

The demand shall be accompanied by the sentence of condemnation notified in legal form, if the criminal claimed has been judged and condemned, or the warrant of arrest granted by the competent Tribunal along with the exact designation of the crime which occasions it and the date of its commission, if the presumed delinquent has only been proceeded against.

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*) Les ratifications ont été échangées à Quito, le 14 juin 1899. V. aussi **N. R. G.** 2e s. XXVIII, 589.

These documents shall be presented in original or in copy duly authenticated.

The demand shall also be accompanied by all the data and antecedents necessary to establish the identity of the person whose surrender may be claimed, as also a copy of the legal dispositions applicable to the deed which gave rise to the judgment, according to the legislation of the country applying for the extradition.

IV. Each of the Governments shall have the power, notwithstanding, in urgent cases and always granting that it has a warrant of imprisonment or sentence of condemnation, to request from the other by telegraph the arrest of a fugitive on the condition that the demand is formalized in agreement with the rules above laid down within the limit of sixty days.

If after the arrest is effected the term appointed expires without that condition being fulfilled, the person detained shall be set at liberty.

V. The demand for extradition with regard to its procedure, the appreciation of its origin, and the admission and qualification of the exceptions which may be impugned against it on the part of the criminal or fugitive claimed, shall be subject to the decision of the competent authorities of the country of asylum, who shall order their proceedings according to the legal dispositions and usages established in the said country to meet the case.

VI. Extradition shall not be granted —

1. When the crime giving rise to the demand is of a political character, or is connected with political offences;

2. When the crimes in question have been committed in the country of asylum;

3. When the crimes, although committed outside the country of asylum have been the subject of trial and definitively judged in it;

4. When, according to the laws of the country applying for extradition, the penalty or the trial to punish the crime have lapsed by prescription.

VII. The High Contracting Parties shall not be obliged to surrender their respective citizens either native or naturalized. With regard to the latter the exception established shall only have effect when the act of naturalization precedes the commission of the crime which occasions the demand of extradition.

In this case, as well as that contained in paragraph 2 of the preceding Article, the Government from which extradition is required must provide for the trial of the criminal claimed, and shall apply to him the penal laws of the country of asylum, as if the action proceeded against had been committed in its own territory. The sentence or definitive resolution pronounced in the suit must be communicated to the Government which applied for the extradition.

The country making the claim shall be bound to produce the proof which must be given in the place where the crime was committed, which

proof, having its authenticity and correct substantiation previously certified, shall have the same value as if it had been given in the place of the trial. Excepting as concerns this proof, the trial shall be ruled in all points by the laws of the country in which it is opened.

VIII. Extradition granted by one Government to the other does not authorize the trial and punishment of the person extradited for any crime other than that which has served as the ground of the demand made. In order to add to the suit against the same person a crime or offence anterior to or different from what is contained in those occasioning the extradition, it shall be necessary to obtain the special consent of the Government which made the surrender of the delinquent applied for in the form established in Article III.

The preceding restrictions shall be without effect always provided the delinquent surrendered has not returned to the country from which he was extradited within three months succeeding the day on which he obtained liberty, whether he remain in the country which claims him or in any other.

IX. If the individual claimed is being criminally prosecuted for an offence committed in the country of asylum, his extradition shall be deferred till the trial terminates, or if he be or have been condemned till his sentence is completed.

Civil obligations which the person claimed may have contracted in the country of asylum shall be no obstacles to his surrender.

X. When the same individual is claimed by one of the Contracting Governments, and also by another or others, that of the country of asylum must prefer the request of the one in whose territory the greatest offence has been committed, and in case of equality of offences, the one which is the first to present the demand.

XI. If the individual claimed be not a citizen of the nation requesting his surrender, and that surrender be required also on account of the same offence by the nation to which he belongs, the Government from which extradition is requested may concede it to that of the two which is considered most expedient in view of the antecedents and circumstances of the case.

XII. All the articles which constitute the material evidence of the crime, or which were used in its commission, as well as the papers and any other means of conviction which may be found hidden or be taken in possession of the person claimed or of third persons, shall be surrendered to the Party making the claim, even when extradition cannot be effected owing to the death or flight of the individual.

Nevertheless the rights of third persons are reserved over the aforesaid articles, which shall be returned free of charge after the termination of the case.

XIII. The two Governments forego repayment of the expenses occasioned by the arrest, custody, and transport of the accused until he is surrendered to the agents of country claming him.

XIV. The present Treaty shall continue in force for the term of ten years counting from the date of the exchange of the ratifications; and, after this term is completed, it shall be understood as prolonged until one of the Contracting Parties notifies the other of its intention to terminate it, a year after making the notification.

The present Treaty shall be ratified, and the ratifications exchanged at Quito or Santiago within the shortest possible time.

In witness whereof the Plenipotentiaries of Equator and Chile sign the present Treaty ad referendum in duplicate, and seal it with their respective seals ad Quito, 10th November, 1897.

(L. S.) *Rafael Gomez de la Torre.*
(L. S.) *B. Mathieu.*

19.

PÉROU, ESPAGNE.

Traité d'extradition; signé à Lima, le 23 juillet 1898.*)

His Excellency the President of the Republic of Peru and His Majesty the King and in his name the Queen-Regent of Spain, animated with the desire to secure and promote the well-being and peace of their respective countries, by facilitating the fair, speedy, and efficacious administration of justice, by preventing crimes and regularizing the surrender of the criminals who take refuge in their respective territories, have agreed to conclude a Treaty, and have appointed for that purpose as Plenipotentiaries:

The President of the Republic of Peru, Señor Dr. Meliton F. Porras, Minister of State in the Department for Foreign Affairs; and

Her Majesty the Queen-Regent of Spain, Don Julio de Arellano, Envoy Extraordinary and Minister Plenipotentiary in Peru; who, after having communicated to each other their full powers, and finding them in good and proper form, have agreed upon the following Articles:

Art. I. The Government of Peru and the Government of Spain mutually agree to surrender persons convicted or prosecuted, as the authors or accomplices of any one of the crimes or offences specified in the following Article, committed in the territory of one of the Contracting States, who have taken refuge in the territory of the other.

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*) Les ratifications ont été échangées à Lima, le 26 juillet 1901.

II. In accordance with the stipulations of this Treaty persons accused or convicted of any of the following crimes, shall be surrendered:

1. Assassination, including the crimes designated as parricide, homicide, poisoning, infanticide, and abortion.

2. Attempt to assassinate.

3. Rape and violation.

4. Arson, flooding of houses or fields.

5. Robbery, by which is understood the abstraction of money, funds, documents, or any kind of public or private property; fraudulent abstraction committed on the highway or in an inhabited house; and abstraction committed by means of violence, by scaling walls, driving holes or fracture; swindling or fraud.

6. Entering the offices of the Government or other public authorities or banks, banking houses, savings banks, deposit banks, or Insurance Companies, with the intention of committing a crime.

7. Falsification or forging official documents of the Government or other public authorities, including those of Law Courts, or making a fraudulent use of the same.

8. The alteration or falsification of public bonds, of bank-notes, of other public or private certificates, or the utterance, sale, or circulation of such bonds, bank-notes, or altered or forged certificates; falsification of public or private documents, or telegraphic despatches, and using these documents, despatches, bonds, bank-notes, or certificates, when altered, manufactured or forged.

9. Falsification or alteration of coins, utterance and circulation of forged or altered coins, as also frauds in the selection of samples for verifying the standard and weight of the money.

10. The alteration or falsification of the seals, postage stamps, dies, or other stamps of the State or of the public authorities and the fraudulent use of the same.

11. Embezzlement or malversation of public funds and extortion committed by public officers or trustees, whenever these offences are visited by personal punishment under the laws of the country in which they are committed.

12. Illegal detention, understanding as such the detention or sequestration of one or more persons to exact money from them or with any other unlawful end.

13. Mutilation, blows or wounds caused with premeditation, when they result in sickness or permanent incapacity for personal labour, the loss of sight or of any other organ, or in death when it was not intended.

14. Damage caused to railways which may put in danger the lives of the passengers; to the telegraph lines, docks, or other useful public works.

15. Rape, indecent assaults, or indecent attempts, without violence, upon children of either sex under the age of 14 years; polygamy.

16. Piracy; the following being considered as pirates for the purpose of this Treaty:

1. Members of the crew of a merchant-vessel of any nation or without nationality, who capture any vessel by force of arms or commit depredations upon a vessel or use any violence against the persons on board, or who assault any town;

2. Those who go on board any ship and take possession of her, and voluntarily hand her over to pirates;

3. Privateers who, in the case of war between two or more nations, cruise without letters of marque from any one of them, or with letters of marque granted by two or more of the belligerents;

4. The captains, masters, or any of the crew of a ship-of-war that mutiny against the Government to which she belongs and take possession of her.

17. Concealment, abduction, defrauding, or corruption of a minor; usurption of civil rights.

18. Fraudulent bankruptcy, or failure and frauds committed in bankruptcy.

19. Cheating.

20. Breach of trust.

The attempt to commit the crimes or offences enumerated will be sufficient ground for extradition, provided it is justifiable according to the criminal law of the country in which the offence took place, and those who conceal or abet such crimes are liable to the same treatment.

Nevertheless, extradition shall not be granted in any case when the offence committed or attempted to be committed is only punishable by less than two years' imprisonment.

III. The dispositions of the present Treaty are not applicable to persons guilty of any political crime or offence, or of connection with such crime or offence. A person who has been surrendered on account of one of the ordinary crimes or offences mentioned in Article II, cannot, therefore, in any case, be prosecuted or punished in the State to which extradition has been granted, even for a crime or offence committed by him before the extradition, if it be an act in connection with such a political crime or offence, unless he has been at liberty to leave the country again during one month after having been tried, and in case of his being condemned, after having suffered his punishment or after having been pardoned. An attempt on the life of the Sovereign or the Chief of the State of either of the contracting countries or of any members of their respective families, will not be considered as a political offence or an act connected with the same, if it constitutes an offence punishable with more than two years' imprisonment.

IV. The person surrendered cannot be prosecuted or punished in the country to which extradition has been conceded, or delivered to a third country, for any crime or offence not specified in this present Treaty or that was committed previous to his extradition, unless he has been at

liberty in either case to leave the said country during one month after having been tried, and in case of his being condemned, after having suffered his punishment or after having been pardoned.

He cannot either be prosecuted or punished for a crime or offence different from the one on account of which the extradition was granted, without the consent of the Government which delivered him up; and that Government can, if it thinks it necessary, require the presentation of one of the documents mentioned in Article IX of this Treaty. The consent of the said Government shall also be solicited for the extradition of the culprit to another country. Nevertheless, this permission will not be necessary when the culprit shall spontaneously have asked to be tried or allowed to suffer his punishment, or when he has not left the territory of the country to which he had been surrendered within the period fixed above.

V. Extradition cannot take place after the expiration of the term fixed by the laws of the country in which the person has taken refuge as the prescriptive limit for the prosecution or execution of the sentences.

VI. In no case and on no ground shall the High Contracting Parties be obliged to surrender their own citizens or subjects.

But if, in accordance with the laws in force in the State to which the culprit belongs, he is to be tried for the offence committed in the other State, the Government of the latter State shall be bound to communicate the records of the preliminary inquiry and the various documents and summaries, and to deliver the objects that constitute the proof of the crime, and to supply all other explanations or evidence of any kind necessary for the prompt execution of justice and the punishment of the culprit.

VII. If the person claimed, and who is suffering detention under suspicion, or accused or condemned, is not a Peruvian or a Spaniard, the Government from which his extradition is asked, may inform the Government to which the person belongs, and hand him over to either of the two Governments.

If the person claimed by one of the Contracting Powers is claimed at the same time by one or more Governments, the Government which has received the request for extradition may, at its discretion, hand him over to either Government.

VIII. Obligations of a private character, by contract or other means that might bind the person whose extradition is asked for, shall not in any case prevent his surrender; and the rights that any one may have as against the accused remain intact while enforced by the competent judicial authority.

IX. Extradition will be conceded in virtue of the petition made by one of the two Governments through the diplomatic channel, and in view of a sentence of condemnation, of a committal to prison, or of any other order that carries the same authority, it being requisite that these orders

shall stipulate the nature and seriousness of the offences imputed, as also the clauses of the penal law applicable.

The orders which accompany the request for extradition shall be originals or legalized copies, duly certified by the Law Courts or the competent authority.

At the same time, wherever possible, the description of the person and all other indications that will facilitate the recognition of his identity shall be attached.

X. In case of urgency, and especially when there is danger of escape, one or other of the Governments, setting forth the fact of condemnation or the existence of an order of imprisonment, may claim the arrest of the condemned or accused man by the most speedy means, and may obtain such arrest on condition of presenting in the shortest time possible the sentence pronounced or the warrant of imprisonment mentioned. The said term shall not exceed three months.

XI. The articles stolen, and any others taken or found in possession of the condemned or accused, the instruments or tools which had been used to commit the crime or offence, as also any other things which may be used in evidence, shall be handed to the State asking the extradition; and the same shall be done when the extradition cannot be effected on account of the death or escape of the accused.

Moreover, all articles of a similar kind which the accused may have hidden or deposited in the country in which he has taken refuge, and which may have been found there after his extradition, shall also be delivered up.

The rights of the proprietor of the said stolen articles are however reserved, and the articles shall be returned free of cost when the criminal suit is finished.

XII. The expenses of the capture, maintenance, and transport of the person whose extradition has been conceded, as well as of the dispatch of the articles which, according to the preceding Article, must be delivered up or returned, shall be defrayed by the State that concedes the extradition as far as the port in its own country which may be named by the State that claims extradition. It is understood, nevertheless, that, in view of the extent of the territory of Peru, the expenses which the Government of Peru have to incur for the extradition of a person who has taken refuge outside the Department of Lima, shall be paid by the Spanish Government.

XIII. If, in the prosecution of a criminal case which is not political, one of the two Governments consider it necessary to take the evidence of witnesses domiciled in the other country, or require any other judicial proceedings, a requisition shall be sent to that effect through the diplomatic channel, and due effect shall be given to it in accordance with the laws in force in the country in which the declarations are to be taken or the judicial proceedings asked for are to be held.

XIV. If, in a criminal case which is not political, the personal appearance of witnesses is necessary, the Government of the country in which these reside will advise them to accept the invitation which the other Government makes.

If the witness consents to go, he shall be provided at once with the necessary passports. The expenses of his voyage there and back, and of his suitable maintenance during his stay in the place where his testimony is required, shall be paid by the Government which asked for his presence, in conformity with such arrangement as that Government may have agreed upon beforehand with the said witness.

In no case can the witnesses be arrested or molested for any act committed previous to their summons during the time of their obligatory residence in the State to which they have been called to make their declaration.

MV. The two Governments undertake to communicate to each other the sentences of condemnation for crimes or offences of all kinds which have been pronounced by the Tribunals of one of the two Contracting States against the citizens or subjects oi the other.

This communication shall be effected by the transmission through the diplomatic channel to the Government of the country to which the condemned man belongs, of a certified copy of the sentence finally pronounced so that it may be deposited in the archives of the competent Court. Each of the two Governments will give to the proper judicial authorities the necessary instructions for this purpose.

XVI. When the surrender is asked for of a culprit whose offence is punishable by death, this will only be conceded under an assurance, given through the diplomatic channel, that the said penalty shall be commuted, even if the case is still pending or concluded. The respective Governments shall to this end require on surrendering the culprit that the final sentence pronounced against him shall be communicated to them.

XVII. The present Treaty will remain in force for five years, and if twelve months before its expiration neither of the two Governments express a wish that it shall be modified or cease altogether, it will continue for another five years, and so on for terms of five years successively.

XVIII. The present Treaty shall be ratified in accordance with the Constitution of each of the two countries, and the ratifications will be exchanged in the city of Lima, within the term of one year or sooner, if possible.

In faith whereof the respective Plenipotentiaries have signed it in duplicate, and sealed it with their seals, in the city of Lima, this 23rd day of the month of July, in the year 1898.

(L. S.) *M. F. Porras.*
(L. S.) *Julio de Arellano.*

Additional Protocol.

Present this day in the Ministry for Foreign Affairs Señor Felipe de Osma, Minister of the Department, and Señor Ramiro Gil de Uríbarri, Envoy Extraordinary and Minister Plenipotentiary of Spain, with the object of carrying out the exchange of the ratifications of the Treaty of Extradition concluded between their respective countries on the 23rd July 1898, the Minister for Foreign Affairs stated that the time had arrived to declare in a special Protocol that clause 4, paragraph 16, of Article II of the said Treaty be understood to mean that the offences to which this clause refers must not arise out of or being in any way connected with offences of a political character, which are absolutely excepted, and for which there is no right to extradition.

The Minister of Spain stated that he accepted in the name of his Government this explanation in accordance with the declaration made by the Legation of the Kingdom in Lima in its despatch of the 11th November 1898.

In faith whereof they signed this Additional Protocol, in duplicate, in Lima, this 26th day of the month of July 1901.

(L. S.) *Felipe de Osma.*
(L. S.) *Ramiro Gil de Uribarri.*

20.

ETATS-UNIS D'AMÉRIQUE, MEXIQUE.

Convention d'extradition; signée à Mexico, le 22 février 1899.*)

Publication Officielle des Etats-Unis d'Amérique.

The United States of America and the United States of Mexico having judged it expedient, with a view to the better administration of justice and the prevention of crime within their respective territories and jurisdictions, that persons charged with, or convicted of, the crimes and offences hereinafter enumerated, and being fugitives from justice, should, under certain circumstances, be reciprocally delivered up, have resolved to conclude a new Convention for that purpose, and have appointed as their Plenipotentiaries:

The President of the United States of America, Powell Clayton, Ambassador Extraordinary and Plenipotentiary of said United States at Mexico; and

*) Les ratifications ont été échangées à Mexico, le 22 avril 1899.

The President of the United States of Mexico, Don Ignacio Mariscal, Secretary of Foreign Relations;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following Articles:

Art. I. The Government of the United States of America and the Government of the United States of Mexico mutually agree to deliver up persons who, having been charged with, or convicted of, any of the crimes and offences specified in the following Article, committed within the jurisdiction of one of the Contracting Parties, shall seek an asylum or be found within the territory of the other.

II. Persons shall be delivered up, according to the provisions of this Convention, who shall have been charged with, or convicted of, any of the following crimes or offences:

1. Murder, comprehending the crimes known as parricide, assassination, poisoning, and infanticide.

2. Rape;

3. Bigamy;

4. Arson;

5. Crimes committed at sea.

a) Piracy, as commonly known and defined by the law of nations;

b) Destruction or loss of a vessel, caused intentionally, or conspiracy and attempt to bring about such destruction or loss when committed by any person or persons on board of said vessel on the high seas;

c) Mutiny or conspiracy by two or more members of the crew or other persons on board of a vessel on the high seas, for the purpose of rebelling against the authority of the captain or commander of such vessel, or by fraud, or by violence, taking possession of such vessel;

6. Burglary, defined to be the act of breaking and entering into the house of another in the night time, with intent to commit a felony therein;

7. The act of breaking into and entering public offices, or the offices of banks, banking-houses, savings banks, Trust Companies, or Insurance Companies, with intent to commit thefts therein, and also the thefts resulting from such acts;

8. Robbery, defined to be the felonious and forcible taking from the person of another of goods or money, by violence, or by putting the person in fear;

9. Forgery, or the utterance of forged papers;

10. The forgery or falsification of the official acts of the Government or public authority, including Courts of Justice, or the utterance or fraudulent use of any of the same;

11. The fabrication of counterfeit money, whether coin or paper, counterfeit titles or coupons of public debt, bank-notes, or other instruments of public credit; of counterfeit seals, stamps, dies, and marks of

State or public administration, and the utterance, circulation, or fraudulent use of any of the above-mentioned objects;

12. The introduction of instruments for the fabrication of counterfeit coin or bank-notes, or other paper current as money;

13. Embezzlement or criminal malversation of public funds committed within the jurisdiction of either Party by public officers or depositories;

14. Embezzlement of funds of a bank of deposit or savings bank, or Trust Company chartered under Federal or State laws;

15. Embezzlement by any person or persons hired or salaried, to the detriment of their employers, when the crime is subject to punishment by the laws of the place where it was committed;

16. Kidnapping of minors or adults, defined to be the abduction or detention of a person or persons in order to exact money from them or from their families, or for any other unlawful end;

17. Mayhem, and any other wilful multilation causing disability or death;

18. The malicious and unlawful destruction or attempted destruction of railways, trains, bridges, vehicles, vessels, and other means of travel, or of public edifices and private dwellings when the act committed shall endanger human life;

19. Obtaining by threats of injury, or by false devices, money, valuables, or other personal property, and the purchase of the same with the knowledge that they have been so obtained, when such crimes or offences are punishable by imprisonment or other corporal punishment by the laws of both countries;

20. Larceny, defined to be the theft of effects, personal property, horses, cattle, live-stock, or money, of the value of 25 dollars or more, or receiving stolen property, of that value, knowing it to be stolen;

21. Extradition shall also be granted for the attempt to commit any of the crimes and offences above enumerated, when such attempt is punishable as a felony by the laws of both Contracting Parties.

III. Extradition shall not take place in any of the following cases:

1. When the evidence of criminality presented by the demanding Party would not justify, according to the laws of the place where the fugitive or person so charged shall be found, his or her apprehension and commitment for trial, if the crime or offence had been there committed.

2. When the crime or offence charged shall be of a purely political character.

3. When legal proceedings or the enforcement of the penalty for the act committed by the person demanded has become barred by limitation according to the laws of the country to which the requisition is addressed.

4. When the extradition is demanded on account of a crime or offence for which the person demanded is undergoing, or has undergone, punishment in the country from which the extradition is demanded, or

in case he or she shall have been prosecuted therein on the same charge and acquitted thereof: provided that, with the exception of the offences included in clause 13, Article II of this Convention, each Contracting Party agrees not to assume jurisdiction in the punishment of crimes committed exclusively within the territory of the other.

IV. Neither of the Contracting Parties shall be bound to deliver up its own citizens under the stipulations of this Convention; but the executive authority of each shall have the power to deliver them up, if, in its discretion, it be deemed proper to do so.

V. If the person whose surrender may be claimed, pursuant to the stipulations of the present Convention, shall have been accused or arrested for the commission of any offence in the country where he or she has sought asylum, or shall have been convicted thereof, his or her extradition may be deferred until he or she is entitled to be liberated on account of the offence charged, for any of the following reasons: Acquittal; expiration of term of imprisonment; expiration of the period to which sentence may have been commuted, or pardon.

VI. If a fugitive criminal claimed by one of the Parties hereto shall also be claimed by one or more Powers, pursuant to Treaty provisions on account of crimes or offences committed within their jurisdiction, such criminal shall be delivered up in preference in accordance with that demand which is the earliest in date.

VII. A person who has been surrendered on account of one of the crimes or offences mentioned in Article II shall in no case be prosecuted and punished in the country in which his or her extradition has been granted, on account of a political crime or offence committed by him or her previous to his or her extradition, or on account of an act connected with such a political crime or offence, unless he or she has been at liberty to leave the country for one month after having been tried, and, in case of condemnation, for one month after having suffered his or her punishment, or having been pardoned.

An attempt against the life of the Head of the Government shall not be considered a political offence.

VIII. Requisitions for the surrender of fugitives from justice under this present Convention shall be made by the respective Diplomatic Agents of the Contracting Parties, or, in the event of the absence of these from the country or from its seat of Government, they may be made by superior Consular officers.

If a person whose extradition is asked for shall have been convicted of a crime or offence, a copy of the sentence of the Court in which he was convicted, authenticated under its seal, with attestation of the official character of the Judge by the proper executive authority, and of the latter by the Minister or Consul of the respective Contracting Party, shall accompany the requisition. When, however, the fugitive shall have been merely charged with a crime or offence a similarly authenticated and

attested copy of the warrant for his arrest in the country where the crime or offence is charged to have been committed, and of the depositions upon which such warrant may have been issued, must accompany the requisition as aforesaid.

Whenever, in the schedule of crimes and offences of Article II, it is provided that surrender shall depend on the fact of the crime or offence charged being punishable by imprisonment or other corporal punishment according to the laws of both Contracting Parties, the Party making the demand for extradition shall furnish, in addition to the documents above stipulated, an authenticated copy of the law of the demanding country defining the crime or offence, and prescribing a penalty therefor.

The formalities being fulfilled, the proper executive authority of the United States of America, or of the United Mexican States, as the case may be, shall then cause the apprehension of the fugitive, in order that he or she may be brought before the proper judicial authority for examination.

If it should then be decided that, according to the law and the evidence, the extradition is due pursuant to the terms of this Convention, the fugitive may be given up according to the forms of law prescribed in such cases.

IX. In the cases of crimes or offences committed or charged to have been committed in the frontier States or territories of the two Contracting Parties, requisitions may be made either through their respective Diplomatic or Consular Agents as aforesaid, or through the chief civil authority of the respective State or territory, or through such chief civil or judicial authority of the districts or countries bordering on the frontier as may for this purpose be duly authorized by the said chief civil authority of the said frontier States or territories; or when, from any cause, the civil authority of such State or territory shall be suspended, through the chief military officer in command of such State or territory; and such respective competent authority shall thereupon cause the apprehension of the fugitive, in order that he may be brought before the proper judicial authority for examination; and the record of such examination, with the evidence duly attested, shall be forwarded to the proper executive authority of the United States of America or of the United Mexican States, as the case may be; when it is found by such respective executive authority that, according to the law and the evidence, the extradition is due pursuant to the terms of this Convention, the fugitive may be given up according to the forms of law prescribed in such cases.

X. On being informed, by telegraph or otherwise, through the diplomatic channel, that a warrant has been issued by competent authority for the arrest of a fugitive criminal charged with any of the crimes enumerated in the foregoing Articles of this Treaty, and on being assured from the same source that a requisition for the surrender of such criminal is about to be made accompanied by such warrant and duly authenticated depositions

or copies thereof in support of the charge, each Government shall endeavour to procure the provisional arrest of such criminal and to keep him in safe custody for such time as may be practicable, not exceeding forty days, to await the production of the documents upon which the claim for extradition is founded.

XI. In every case of a demand made by either of the two Contracting Parties for the arrest, detention, or extradition of fugitive criminals, in pursuance of the provisions of this Convention, the legal officers or Fiscal Ministry of the country where the proceedings of extradition are had shalc assist the officers of the Government demanding the extradition before the respective Judges and Magistrates, by every legal means within their or its power; and no claim whatever for compensation for any of the services so rendered shall be made against the Government demanding the axtradition: provided, however, that any officer or officers of the surrendering Government so giving assistance, who shall in the usual course of their duties be compensated by specific fees for services performed in lieu of salary therefor, shall be entitled to receive from the Government demanding the extradition the customary fees for the acts or services performed by them, in the same manner and to the same amount as through such acts or services had been performed in ordinary criminal proceedings under the laws of the country of which they are officers.

XII. A person surrendered under this Convention shall not be tried or punished in the country to which his or her extradition has been granted, nor given up to a third Power, for a crime or offence not provided for by this Convention and committed previous to his or her extradition, unless the consent of the surrendering Government be given for such trial or such surrender to a third Power.

But such consent shall not be necessary

a) When the accused shall have voluntarily requested to be so tried or surrendered to a third Power;

b) When he or she shall have been free to leave the country during thirty days after discharge from custody because of the charge on which he or she was surrendered, or, if convicted thereof, during thirty days after having satisfied his or her penalty or having been pardoned.

XIII. A person surrendered under this Convention may be tried and punished in the country to which his extradition has been granted, or may be given up to a third Power, for any crime or offence provided for by Article II of this Convention, and committed previous to his extradition, besides that which gave rise to the extradition. Notice of the purpose to so try or surrender him, with specification of the crime or offence charged, shall be given to the Government which surrendered him, which may, if it thinks proper, require the production of documentary evidence of the charge conformably to the prescription of Article VIII bereof.

XIV. The expense of the arrest, detention, and transportation of the person claimed shall be paid by the Government in whose name the requisition has been made.

XV. All articles found in the possession of the accused party, and obtained through the commission of the act with which he is charged, or that may be used as evidence of the crime or offence for which his extradition is demanded, shall be seized if the competent authority shall so order, and shall be surrendered with his person.

The rights of third parties to the articles so found shall, nevertheless, be respected.

XVI. A person surrendered to, or delivered up by, either of the Contracting Parties by virtue of a Convention of Extradition with a third Party, and not being a citizen of the country of transit, may be conveyed in transit across the territory of the other, if the convenient course of travel from or to the country to which he has been surrendered shall lie in whole or part within such territory.

The Contracting Party delivering up or receiving such surrendered person shall make application for such purpose to the Government of the country through which transit is desired, producing in support of such application a duly attested copy of the warrant of surrender issued by the Government granting the extradition; and, thereupon, the proper executive authority of the country whose territory is to be so traversed may issue a warrant permitting the transit of the surrendered person transported. Such transit must be wholly accomplished within thirty days counting from the date of the entrance of such transported person within the territory of the country of transit, after which time said person may be set at liberty if there found.

This Article shall not, however, take effect until the Congress of the respective countries shall by law authorize such transit, and the issue of a warrant therefor.

XVII. Each of the Contracting Parties shall exercise due diligence in procuring the extradition and prosecution of its citizens who may be charged with the commission of any one of the crimes or offences mentioned in Article II, exclusively committed in its territory against the Government or any of the citizens of the other Contracting Party, when the person accused may have taken refuge or be found within the territory of the latter, provided the said crime or offence is one that is punishable, as such, in the territory of the demanding country.

XVIII. The present Convention shall take effect from the date of the exchange of ratifications; but its provisions shall be applied to all cases of crime or offences enumerated in Article II which may have been committed since the 24th January, 1899.

XIX. This Convention shall continue in effect until six months after a desire for its termination shall have been expressed in due form by one of the two Governments to the other.

It shall be ratified by both Contracting Parties, and its ratifications shall be exchanged at the city of Mexico as soon as possible.

In witness whereof the respective Plenipotentiaries have signed the present Convention, both in the English and Spanish languages, and thereunto affixed theis seals.

Done in duplicate at the city of Mexico, this 22nd day of February, 1899.

(L. S.) *Ignacio Mariscal.*
(L. S.) *Powell Clayton.*

21.

CONGO, FRANCE.

Traité d'extradition; signé à Bruxelles le 18 novembre 1899.*)

Moniteur belge. 1901.

Le Gouvernement de Sa Majesté le Roi des Belges, Souverain de l'Etat Indépendant du Congo, et le Gouvernement de la République Française, ayant jugé opportun, afin de mieux assurer l'administration de la justice et la répression des crimes et délits dans leurs territoires respectifs, de se livrer réciproquement, sous certaines conditions, les personnes accusées ou condamnées du chef des crimes et délits ci-après énumérés et qui auraient fui la justice de leur pays, ont nommé pour leurs Plénipotentiaires, à l'effet de conclure un Traité dans ce but, savoir:

Sa Majesté le Roi des Belges, Souverain de l'Etat Indépendant du Congo, M. le Baron van Eetvelde Commandeur de l'Ordre de Léopold, Grand-Officier de la Légion d'Honneur, Grand-Cordon des Ordres du Christ de Portugal, de Saint-Grégoire-le-Grand, Chevalier de 2e classe avec plaque de l'Ordre de la Couronne Royale de Prusse, &c., Secrétaire d'Etat de l'Etat Indépendant du Congo; et

Le Président de la République Française, M. Auguste Gérard, Commandeur de la Légion d'Honneur, Grand-Officier de l'Ordre de Léopold, Grand-Croix des Ordres de Sainte-Anne de Russie, de l'Indépendance du Monténégro, du Double Dragon de Chine, Grand-Officier de l'Ordre de Charles III d'Espagne, &c., Envoyé Extraordinaire et Ministre Plénipotentiaire de la République Française près de Sa Majesté le Roi des Belges;

Lesquels, après s'être communiqué réciproquement leurs pleins pouvoirs, reconnus en bonne et due forme, sont convenus des articles suivants:

Art. I. Les Hautes Parties Contractantes s'engagent à se livrer réciproquement, dans les circonstances et les conditions établies par le présent Traité, les individus qui, étant poursuivis ou condamnés pour un crime

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*) L'échange des ratifications a eu lieu à Bruxelles, le 7 février 1901.

ou un délit commis sur le territoire de la partie requérante, seront trouvés sur le territoire ou les possessions de l'autre partie.

Néanmoins, lorsque le crime ou le délit donnant lieu à la demande d'extradition aura été commis hors du territoire du pays requérant, il pourra être donné suite à cette demande si la législation du pays requis autorise la poursuite des mêmes infractions commises hors de son territoire.

II. Les crimes et les délits donnant lieu à extradition sont:

1. Assassinat; empoisonnement; parricide; infanticide; meurtre;

2. Coups portés ou blessures faites volontairement avec préméditation, ou ayant causé une maladie paraissant incurable, une incapacité permanente de travail personnel, la perte de l'usage absolu d'un organe, une mutilation grave ou la mort sans intention de la donner;

3. Administration volontaire et coupable, mais sans intention de donner la mort, de substances pouvant la donner ou altérer gravement la santé;

4. Avortement:

5. Viol; attentat à la pudeur commis avec violence; attentat à la pudeur commis sans violence sur la personne ou à l'aide de la personne d'un enfant de l'un ou de l'autre sexe âgé de moins de 13 ans, s'il s'agit d'un individu réclamé par la France et de moins de 12 ans s'il s'agit d'un individu réclamé par l'Etat Indépendant du Congo; attentat aux mœurs en excitant, facilitant ou favorisant habituellement, pour satisfaire les passions d'autrui, la débauche ou la corruption des mineurs de l'un ou de l'autre sexe;

6. Bigamie;

7. Enlèvement de mineurs;

8. Enlèvement, recel, suppression, substitution ou supposition d'enfant;

9. Exposition ou délaissement d'un enfant au-dessous de l'âge de 7 ans;

10. Association de malfaiteurs;

11. Vol; extorsion; escroquerie; abus de confiance, tromperie;

12. Menaces d'attentat contre les personnes ou les propriétés punissable de la peine de mort, des travaux forcés ou de la réclusion;

13. Offres ou propositions de commettre un crime ou d'y participer, ou acceptation des dites offres ou propositions;

14. Attentat à la liberté individuelle et à l'inviolabilité du domicile commis par des particuliers;

15. Fausse monnaie, comprenant la contrefaçon et l'altération de la monnaie; l'émission et la mise en circulation de la monnaie contrefaite ou altérée, ainsi que les fraudes dans le choix des échantillons pour la vérification du titre et du poids des monnaies:

16. Contrefaçon ou falsification d'effets publics ou de billets de banque, de titres publics ou privés; émission ou mise en circulation de ces effets, billets ou titre contrefaits ou falsifiés; faux en écritures ou dans les dépêches télégraphiques et usage de ces dépêches, effets, billets ou titres contrefaits, fabriqués ou falsifiés:

17. Contrefaçon ou falsification de sceaux, timbres, poinçons, marques, coupons pour le transport des personnes ou des choses, timbres-postes ou autres timbres adhésifs; usage de ces objets contrefaits ou fasifiés; usage préjudiciable des vrais sceaux, timbres, poinçons ou marques; application méchante ou frauduleuse sur un objet d'art, un ouvrage de littérature ou de musique du nom d'un auteur ou de tout signe distinctif adopté par lui pour désigner son œuvre; vente, exposition en vente, détention dans les magasins, introduction sur le territoire, pour être vendus, des dits objets;

18. Faux témoignage et fausses déclarations d'experts ou d'interprètes; subornation de témoins, d'experts ou d'interprètes;

19. Faux serments;

20. Concussion, détournement commis par des fonctionnaires publics; corruption de fonctionnaires publics;

21. Banqueroute frauduleuse et fraudes commises dans les faillites;

22. Entraves volontaires à la circulation d'un convoi sur un chemin de fer par le dépôt d'objets quelconques, pat le dérangement des rails ou de leurs supports; par l'enlèvement de chevilles ou clavettes ou par l'emploi de tout autre moyen de nature à arrêter le convoi ou à le faire sortir des rails;

23. Incendie volontaire;

24. Destruction de constructions, machines à vapeur ou appareils télégraphiques; destruction ou dégradation de tombeaux, monuments, objets d'art, titres publics ou privés; destruction ou détérioration de propriétés mobilières à l'aide de violences ou de menaces; destruction ou détérioration méchante ou frauduleuse de marchandises ou de matières servant à la fabrication;

25. Destruction ou dévastation de récoltes, plants, arbres ou greffes;

26. Destruction d'instruments d'agriculture; destruction ou empoisonnement de bestiaux ou autres animaux:

27. Opposition à l'exécution des travaux publics;

28. Abandon par le capitaine, hors les cas prévus par la loi des deux pays, d'un navire ou bâtiment de commerce du de pêche:

29. Echouement, perte, destruction par le capitaine ou les officiers et gens de l'équipage; détournement par le capitaine d'un navire ou d'un bâtiment de commerce ou de pêche; jet ou destruction sans nécessité de tout ou partie du chargement, des vivres ou des effets du bord; fausse route; emprunts sans nécessité sur le corps, avictuaillement ou équipement du navire, ou mise en gage ou vente des marchandises ou victuailles ou emploi dans les comptes d'avaries ou de dépenses supposées; vente du navire sans pouvoir spécial, hors le cas d'innavigabilité; déchargement de marchandises sans rapport préalable hors le cas de péril imminent; vol commis à bord; altération de vivres ou de marchandises commise à bord par le mélange de substances malfaisantes; attaque ou résistance avec violence et voies de fait envers le capitaine par plus du tiers de l'équipage; refus d'obéir aux ordres du capitaine ou officier du bord pour le salut du

navire ou de la cargaison avec coups et blessures; complot contre la sûreté, la liberté ou l'autorité du capitaine; prise du navire par les marins ou passagers par fraude ou violence envers le cepitaine;

30. Recèlement des objets obtenus à l'aide d'un des crimes ou délits prévus par la présente Convention;

31. Traite des esclaves;

32. Infraction aux défenses concernant les armes à feu et les munitions prévues par les Articles VIII et IX de l'Acte Général de Bruxelles.

Sont comprises dans les qualifications précédentes, la complicité et la tentative, lorsqu'elles sont punies par les législations des deux pays.

Dans tous les cas, l'extradition ne pourra avoir lieu que lorsque le fait similaire sera punissable d'après la législation du pays auquel la demande est adressée.

III. Chaque Gouvernement est libre de refuser de livrer ses propres sujets à l'autre Gouvernement.

Toutefois cette faculté ne pourra s'exercer à l'égard du fugitif qui, depuis le crime ou le délit dont il est inculpé ou pour lequel il a été condamné, aurait acquis la nationalité dans le pays requis.

IV. L'extradition n'aura pas lieu:

1. Si d'après les lois du pays requis la prescription de l'action ou de la peine est acquise avant l'arrestation de l'individu réclamé;

2. Lorsque la demande en sera motivée par le même fait pour lequel l'individu réclamé est poursuivi dans le pays de refuge, y a été définitivement condamné, acquitté ou renvoyé de la plainte.

V. Si l'individu réclamé est poursuivi ou condamné dans le pays requis, pour une infraction autre que celle qui donne lieu à la demande d'extradition, son extradition pourra être différée jusqu'à la fin de la poursuite et, en cas de condamnation, jusqu'au moment où il aura subi sa peine.

Dans le cas où il serait poursuivi ou détenu dans le même pays à raison d'obligations contractées envers des particuliers, son extradition aura lieu néanmoins, sauf à la partie lésée à poursuivre ses droits devant l'autorité compétente.

VI. L'individu extradé ne sera ni poursuivi ni jugé contradictoirement pour une infraction autre que celle ayant motivé l'extradition.

Toutefois cette règle souffre exception:

1. S'il a consenti à être jugé ou à subir sa peine, auquel cas son consentement sera communiqué au Gouvernement qui l'a livré, ou si pendant le mois qui suit son élargissement définitif il n'a pas quitté le pays auquel il a été livré;

2. Si l'infraction est comprise dans la Convention et si le Gouvernement auquel il a été livré a obtenu préalablement l'adhésion du Gouvernement qui a accordé l'extradition, ce dernier pourra, s'il le juge convenable, exiger la production de l'un des documents mentionnés dans l'Article X de la présente Convention.

La réextradition à un pays tiers est soumise aux mêmes règles.

VII. Dans le cas de réclamation du même individu de la part de deux États, pour crimes distincts, le Gouvernement requis statuera en prenant pour base la gravité du fait poursuivi ou les facilités accordées pour que l'individu soit restitué, s'il y a lieu, d'un pays à l'autre, pour purger successivement les accusations portées contre lui.

VIII. L'extradition ne sera pas accordée si l'infraction pour laquelle elle est demandée est considérée par la partie requise comme un délit politique on un fait connexe à un semblable délit.

Ne sera pas réputé délit politique ni fait connexe à un semblable délit, l'attentat contre la personne du chef d'un État étranger ou contre celle des membres de sa famille, lorsque cet attentat constituera le fait soit de meurtre, soit d'assassinat, soit d'empoisonnement.

IX. La demande d'extradition devra être faite par la voie diplomatique. Néanmoins, elle peut être adressée ou accordée directement par les Gouverneurs des Colonies Françaises de la Côte Occidentale d'Afrique au Gouverneur-Général de l'État Indépendant du Congo, et réciproquement par le Gouverneur-Général de l'État Indépendant du Congo aux Gouverneurs des Colonies Françaises de la Côte Occidentale d'Afrique.

X. L'extradition sera accordée sur la production de l'original ou de l'expédition authentique soit du jugement ou de l'arrêt de condamnation, soit de l'ordonnance de la Chambre du Conseil, de l'arrêt de la Chambre des mises en accusation ou de l'acte de procédure criminelle émané du juge compétent décrétant formellement ou opérant de plein droit le renvoi du prévenu ou de l'accusé devant la juridiction répressive. Elle sera également accordée sur la production du mandat d'arrêt ou de tout autre acte ayant la même force, décerné par l'autorité étrangère compétente, pourvu que ces actes renferment l'indication précise du fait pour lequel ils ont été délivrés.

Ces pièces seront accompagnées d'une copie du texte de la Loi applicable au fait incriminé, et, autant que possible, du signalement de l'individu réclamé ou de toute autre indication de nature à constater son identité.

XI. En cas d'urgence, l'arrestation provisoire sera effectuée sur avis, transmis par la poste ou le télégraphe, de l'existence d'un des documents mentionnés à l'Article X, à la condition toutefois que cet avis sera régulièrement donné suivant les formes prévues à l'Article IX.

Cette arrestation sera facultative si la demande est parvenue directement à une autorité judiciaire ou administrative de l'un des deux pays.

L'arrestation provisoire aura lieu dans les formes et suivant les règles établies par la législation du Gouvernement requis. Elle cessera d'être maintenue si, dans le délai de trois mois à partir du moment où elle aura été effectuée, l'inculpé n'a pas reçu communication de l'un des documents mentionnés à l'Article X de la présente Convention.

XII. Quand il y aura lieu à extradition, tous les objets provenant du crime ou du délit ou pouvant servir de pièces à conviction, qui seront

trouvés en la possession de l'individu réclamé au moment de son arrestation, ou qui seront découverts ultérieurement, seront, si l'autorité compétente de l'État requis en ordonne ainsi, saisis et remis à l'État requérant.

Cette remise pourra se faire, même si l'extradition ne peut s'accomplir par suite de l'évasion ou de la mort de l'individu réclamé.

Sont cependant réservés les droits que des tiers auraient pu acquérir sur les dites objets, qui devront, le cas échéant, leur être rendus, sans frais, à la fin du procès.

XIII. Les frais d'arrestation, d'entretien et de transport de l'individu dont l'extradition aura été accordée, ainsi, que ceux de consignation et de transport des objets qui, aux termes de l'Article précédent, doivent être restitués ou remis, resteront à la charge des deux États dans les limites de leurs territoires respectifs.

L'individu à extrader sera conduit au port que désignera le Gouvernement réclamant, aux frais duquel il sera embarqué.

XIV. L'extradition par voie de transit sur les territoires respectifs des États Contractants, d'un individu n'appartenant pas au pays de transit, sera accordée sur la simple production en original, ou en expédition authentique, de l'un des documents mentionnés dans l'Article X, pourvu que le fait servant de base à l'extradition soit compris dans la présente Convention et ne rentre pas dans les prévisions de l'Article VIII.

Les frais de transit seront à la charge de la partie requérante.

XV. Lorsque, dans la poursuite d'une affaire pénale non politique, l'audition de personnes se trouvant dans l'un des deux pays ou tout autre acte d'instruction seront jugés nécessaires, une Commission Rogatoire sera adressée à cet effet suivant les formes prévues par l'Article IX, et, à moins que le Gouvernement requis ne constate l'impossibilité de la faire exécuter, il y sera donné suite en observant les lois du pays dans lequel l'audition ou l'acte d'instruction devra avoir lieu.

Toutefois les Commissions Rogatoires tendant à faire opérer soit une visite domiciliaire, soit la saisie du corps du délit ou des pièces à conviction, ne pourront être exécutées que pour un des faits énumérés à l'Article II et sous la réserve exprimée au dernier paragraphe de l'Article XII ci-dessus.

Les Gouvernements respectifs renoncent au remboursement des frais résultant de l'exécution des Commissions Rogatoires en matière pénale, même dans le cas où il s'agirait d'expertise, pourvu toutefois que cette expertise n'ait pas entraîné plus d'une vacation.

XVI. En matière pénale non politique, lorsque le Gouvernement de l'un des deux pays jugera nécessaire la notification d'un acte de procédure ou d'un jugement à un individu résidant sur le territoire de l'autre partie, la pièce transmise suivant les formes prévues à l'Article IX sera signifiée à personne à la requête du ministère public au lieu de la résidence par

les soins d'un officier compétent, et l'original constatant la notification sera renvoyé par la même voie au Gouvernement requérant sans restitution des frais.

XVII. Si dans une cause pénale non politique la comparution personnelle d'un témoin est nécessaire, le Gouvernement du pays où réside le témoin l'engagera à se rendre à l'invitation qui lui sera faite.

Quant à l'indemnité à accorder au témoin, un accord interviendra dans chaque cas particulier entre le Gouvernement requérant et le Gouvernement requis.

Aucun témoin, quelle que soit sa nationalité, qui, cité dans l'un des deux pays, comparaîtra volontairement devant les juges de l'autre pays, ne pourra y être poursuivi ou détenu pour faits antérieurs, ni sous prétexte de complicité dans les faits, objet du procès où il figurera comme témoin.

XVIII. Lorsque, dans une cause pénale non politique instruite dans l'un des deux pays, la communication de pièces à conviction ou de documents se trouvant entre les mains des autorités de l'autre pays sera jugée nécessaire ou utile, la demande en sera faite dans les formes prévues dans l'Article IX, et l'on y donnera suite, à moins que des considérations particulières ne s'y opposent et sous l'obligation de renvoyer les pièces et documents.

Les Gouvernements Contractants renoncent au remboursement des frais résultant, dans les limites de leurs territoires respectifs, de l'envoi et de la restitution des pièces de conviction et documents.

XIX. Le présent Traité entrera en vigueur quatre mois après l'échange des ratifications, lequel aura lieu le plus tôt possible.

Chacune des Parties Contractantes pourra, en tout temps, le dénoncer, en prévenant l'autre Partie de son intention six mois à l'avance.

Fait en double exemplaire à Bruxelles, le 18 Novembre 1899.

(L. S.) *Baron van Eetvelde.*
(L. S.) *A. Gérard.*

22.

AUTRICHE-HONGRIE, GRANDE-BRETAGNE.

Déclaration amendant l'article XI du traité conclu entre l'Autriche-Hongrie et la Grande-Bretagne, le 3 décembre 1873,*) relatif à l'extradition des criminels en fuite; signée à Londres, le 26 juin 1901.**)

Recueil des Traités du XXe siècle.

Nachdem von den Regierungen Österreichs und Ungarns und von der Regierung Grossbritanniens und Irlands die Verlängerung der im Artikel XI des zwischen Seiner Majestät dem Kaiser von Österreich, König von Böhmen, etc., und Apostolischen König von Ungarn einerseits, und weiland Ihrer Majestät der Königin des vereinigten Königreiches von Grossbritannien und Irland, Kaiserin von Indien, etc. andererseits, am 3. Dezember 1873, über die gegenseitige Auslieferung der Verbrecher abgeschlossenen Staatsvertrages festgesetzten Frist von 14 Tagen für notwendig erkannt worden ist, haben die hiezu bevollmächtigten Unterzeichneten folgendes vereinbart:

Der letzte Absatz des Artikels XI des erwähnten Auslieferungsvertrages wird folgendermassen abgeändert:

„Vorausgesetzt wird übrigens, dass in der kürzesten Frist und zwar längstens binnen einem Monate, bei sonstiger Entlassung des Verhafteten, durch den diplomatischen Vertreter des um die Auslieferung ersuchenden Staates eine Requisition wegen der

As it is considered necessary by the Governments of Austria and Hungary and by the Government of Great Britain and Ireland to extend the period of fourteen days fixed in Article XI of the Treaty for the mutual surrender of criminals, concluded on the 3rd December, 1873, between His Majesty the Emperor of Austria, King of Bohemia, etc., and Apostolic King of Hungary, on one side, and Her late Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, etc., on the other, the respective Plenipotentiaries, Undersigned, have agreed that:

The last paragraph of Article XI of the said Treaty of Extradition shall be altered as follows:

„Provided, however, that he shall be discharged if, within the shortest time possible, and at the utmost within one month, a requisition for his surrender in accordance with the terms of Article IX of this Treaty be not made by the Diplomatic Represen-

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*) V. **N. R. G.** 2e s. I. 527.

**) Les ratifications ont été échangées à Londres, le 25 juin 1902.

Auslieferung in der dem Artikel IX dieses Vertrages entsprechenden Weise erhoben wird."

Die gegenwärtige Erklärung wird dieselbe Kraft und Dauer haben, wie der Auslieferungsvertrag vom 3. Dezember 1873, auf welchen sie sich bezieht.

Die gegenwärtige Erklärung wird ratifiziert werden und werden die Ratifikationen sobald als möglich in London ausgewechselt werden.

Zu Urkund dessen haben die Unterzeichneten diese Erklärung gefertigt und ihre Siegel beigedrückt.

So geschehen zu London, in doppelter Ausfertigung am 26 Juni 1901.

Für Österreich und für Ungarn, der österreichisch-ungarische Botschafter:

(L. S.) *Deym.*

Für Grossbritannien und Irland, der königlich grossbritannische Staatssecretär für die Auswärtigen Angelegenheiten:

(L. S.) *Lansdowne.*

tative of the State which requests his extradition."

The present Declaration shall have the same force and duration as the Extradition Treaty of the 3rd December, 1873, to which it relates.

The present Declaration shall be ratified, and the ratifications shall be exchanged as soon as possible at London.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seal of their arms.

Done in duplicate at London, the 26the day of June, 1901.

For Austria and for Hungary, the Austro-Hungarian Ambassador:

(L. S.) *Deym.*

For Great Britain and Ireland, His Britannic Majesty's Principal Secretary of State for Foreign Affairs:

(L. S.) *Lansdowne.*

23.

ITALIE, GRÈCE.

Déclaration additionnelle à la convention d'extradition du 17/5 novembre 1877;*) signée à Athènes, le 29/16 mars 1905.

Gazzetta Ufficiale del Regno d'Italia. No. 228. 1905.

Déclaration.

Le Gouvernement de Sa Majesté le Roi d'Italie et le Gouvernement de Sa Majesté le Roi des Héllènes, étant tombés d'accord sur l'opportunité de modifier les dispositions de l'article 13 de la Convention d'extradition en vigueur entre les deux pays, du 5/17 novembre 1877, les soussignés, dûment autorisés, sont convenus de la rédaction suivante, qui fera dorénavant partie intégrante de la susdite Convention:

Article 13.

Si l'individu réclamé et arrêté dans les conditions de la présente Convention, n'est pas extradé et renvoyé à son pays dans le délai de trois mois après son arrestation, il sera mis en liberté, et ne pourra plus être réclamé pour la même cause.

La présente déclaration sera exécutoire dans chacun des deux pays, à partir de sa promulgation dans le Journal officiel, et aura la même durée que la Convention du 5/17 novembre 1877.

En foi de quoi, les soussignés ont procédé à la signature de la présente déclaration, sous réserve de son approbation par la Chambre des députés hellénique.

Fait en double expédition à Athènes, le seize/vingt-neuf mars mil neuf-cent cinq.

(L. S.) *R. Bollati.*
(L. S.) *A. Skomé.*

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*) V. **N. R. G.** 2 s. IV. 321.

24.

GRÈCE, BELGIQUE.

Traité d'extradition; signé à Athènes, le $\frac{26 \text{ juin}}{9 \text{ juillet}}$ 1901.*)

Journal officiel de Grèce, Athènes, 9 février 1904.

Sa Majesté le Roi des Hellénes et Sa Majesté le Roi des Belges étant convenus de conclure un traité pour l'extradition réciproque des malfaiteurs, ont muni dans ce but de leurs pleins-pouvoirs savoir:

Sa Majesté le Roi des Hellénes:

Monsieur Athos Romanos, Commandeur de l'Ordre du Sauveur, Son Ministre des Affaires Etrangères.

Sa Majesté le Roi des Belges:

Monsieur le Baron Guillaume, Officier de l'Ordre de Léopold, Grand Commandeur de l'Ordre du Sauveur, Son Envoyé Extraordinaire et Ministre Plénipotentiaire près la Cour d'Athènes,

lesquels, après s'être communiqué leurs pleins-pouvoirs, trouvés en bonne et due forme, sont convenus des articles suivants:

Article 1.

Les Hautes Parties contractantes s'engagent à se livrer réciproquement dans les circonstances et les conditions établies par le présent traité, les individus qui, étant poursuivis ou condamnés pour un crime ou un délit commis sur le territoire de la partie requérante, se réfugieraient sur le territoire de l'autre partie.

Article 2.

L'extradition ne sera accordée que pour les infractions aux lois pénales indiquées ci-après, lorsqu'elles seront prévues par les législations des deux pays:

1. Assassinat, empoisonnement, parricide, infanticide, meurtre.
2. Coups portés ou blessures faites volontairement avec préméditation, ayant causé une maladie paraissant incurable, une incapacité permanente de travail personnel, la perte de l'usage absolu d'un organe, une mutilation grave ou la mort sans intention de la donner.
3. Bigamie.
4. Enlèvement de mineurs.
5. Exposition ou délaissement d'un enfant au dessous de l'âge de 7 ans.
6. Vol, soustraction, abus de confiance, tromperie, escroquerie, extorsion.

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*) Les ratifications ont été échangées à Athènes, le 23 février 1904.

7. Privation volontaire et illégale de la liberté individuelle commise par des particuliers.

8. Fausse monnaie comprenant la contrefaçon et l'altération de la monnaie, l'émission et la mise en circulation avec connaissance de la monnaie contrefaite ou altérée.

9. Contrefaçon ou falsification d'effets publics ou de billets de banque, de titres publics ou privés; émission ou mise en circulation avec connaissance de ces effets, billets ou titres contrefaits ou falsifiés; faux en écritures ou dans les dépêches télégraphiques et usage avec connaissance de ces dépêches, effets, billets ou titres contrefaits fabriqués ou falsifiés.

10. Contrefaçon ou falsification de sceaux, timbres, poinçons, timbres-poste ou autres timbres adhésifs; usage avec connaissance de ces objets contrefaits ou falsifiés; usage préjudiciable et avec une intention frauduleuse de vrais sceaux, timbres et poinçons.

11. Faux témoignage.

12. Faux serment.

13. Concussion, détournement, commis par des fonctionnaires publics; corruption de fonctionnaires publics.

14. Banqueroute frauduleuse et fraudes commises dans les faillites.

15. Incendie volontaire.

16. Destruction, dégradation ou suppression volontaire et illégale d'un titre public ou privé commise dans le but de causer du dommage à autrui.

17. Recélement des objets obtenus à l'aide d'un des crimes ou délits prévus par la présente convention.

Sont comprises dans les qualifications précédentes, la complicité et la tentative, lorsqu'elles sont punies par les législations des deux pays.

En matière correctionnelle l'extradition aura lieu:

1. Pour les condamnés contradictoirement ou par défaut, lorsque la peine prononcée sera au moins d'un an d'emprisonnement.

2. Pour les prévenus, lorsque le maximum de la peine applicable au fait incriminé, sera, d'après les législations des deux pays, au moins de deux ans d'emprisonnement.

Article 3.

Aucun sujet hellène ne sera extradé au Gouvernement Belge et aucun sujet belge ne sera extradé au Gouvernement Hellénique.

Si le prévenu ou le condamné n'est pas sujet de celui des deux Etats contractants qui le réclame, le Gouvernement saisi de la demande d'extradition restera libre de donner à cette demande la suite qui lui paraîtra convenable et de livrer le prévenu, pour être jugé, soit à son propre pays soit au pays ou le crime aura été commis.

Article 4.

L'extradition n'aura pas lieu:

1. Si depuis les faits imputés depuis la poursuite ou la condamnation, la prescription de l'action ou de la peine est acquise, d'après les lois du pays requis, au moment où la remise pourrait avoir lieu;

2. Lorsque la demande d'extradition sera motivée par le même fait pour lequel l'individu réclamé a été poursuivi et mis hors de cause, ou est encore poursuivi ou a déjà été jugé dans le pays auquel l'extradition est demandée.

Article 5.

Si l'individu réclamé est poursuivi ou condamné, dans le pays requis, pour une infraction autre que celle qui a donné lieu à la demande d'extradition, son extradition pourra être différée jusqu'à la fin de la poursuite et en cas de condamnation, jusqu'au moment où il aura subi sa peine.

Dans le cas où il serait poursuivi ou détenu dans le même pays à raison d'obligations contractées envers des particuliers, son extradition aura lieu néanmoins sous réserve, pour ceux-ci, de faire valoir ensuite leurs droits devant l'autorité compétente.

Article 6.

L'extradition ne sera pas accordée si l'infraction pour laquelle elle est demandée est considérée par la partie requise, comme un délit politique ou un fait connexe à un semblable délit, ou si l'individu réclamé prouve que la demande d'extradition a été faite, en réalité, dans le but de le poursuivre pour une infraction de cette nature.

L'étranger dont l'extradition aura été accordée ne pourra être poursuivi ou puni pour aucun délit politique antérieur à l'extradition, ni pour aucun fait connexe à un semblable délit, ni pour aucun des crimes où délits non prévus par la présente convention.

L'individu extradé ne pourra être poursuivi ou jugé contradictoirement pour aucune infraction autre que celle qui a motivé l'extradition. Cela ne s'applique pas aux infractions commises après l'extradition.

Article 7.

La demande d'extradition devra toujours être faite par la voie diplomatique.

Article 8.

L'extradition sera accordée conformément aux règles prescrites par la loi du pays requis.

Article 9.

L'extradition sera accordée sur la production de l'original ou de l'expédition authentique soit du jugement ou de l'arrêt de condamnation, soit de l'ordonnance de la Chambre du Conseil, de l'arrêt de la Chambre des mises en accusation ou de l'acte de procédure criminelle émané du juge compétent, décrétant formellement ou opérant de plein droit le renvoi du prévenu ou de l'accusé devant la juridiction répressive.

Elle pourra être également accordée sur la production du mandat d'arrêt ou de tout autre acte ayant la même force, décerné par l'autorité étrangère judiciaire compétente, pourvu que ces actes renferment l'indication précise du fait pour lequel ils ont été délivrés.

Ces pièces seront accompagnées d'une copie du texte de la loi, applicable au fait incriminé et, le cas échéant, d'une traduction en langue française et autant que possible du signalement de l'individu réclamé ou de toute autre indication de nature à constater son identité.

Dans le cas où il y aurait doute sur la question de savoir si le crime ou délit, objet de la poursuite, rentre dans les prévisions de la présente convention, le Gouvernement requis pourra demander toutes les explications qu'il considérerait nécessaires ou utiles pour éclairer sa conviction, après quoi il statuera sur la suite à donner à la demande d'extradition.

Article 10.

En cas d'urgence, l'arrestation provisoire pourra être effectuée sur avis, transmis par la poste ou le télégraphe et toujours par voie diplomatique, de l'existence d'un des documents mentionnés à l'article 9, à la condition toutefois, que cet avis sera régulièrement donné au Ministre des Affaires Etrangères du pays requis.

L'arrestation provisoire aura lieu dans les formes et suivant les règles établies par la législation du Gouvernement requis. Elle cessera d'être maintenue si, dans le délai de trois semaines à partir du moment où elle aura été effectuée, l'inculpé n'a pas reçu communication de l'un des documents mentionnés à l'article 9 de la présente convention.

Article 11.

Quand il y aura lieu à extradition, tous les objets provenant du crime ou du délit ou pouvant servir de pièces à conviction qui seront trouvés en la possession de l'individu réclamé au moment de son arrestation ou qui seront découverts ultérieurement, seront, si l'autorité compétente de l'Etat requis en ordonne ainsi, saisis et soumis à l'Etat requérant.

Cette remise se fera même si l'extradition ne peut s'accomplir par suite de l'évasion ou de la mort de l'individu réclamé.

Sont cependant réservés les droits que des tiers auraient pu acquérir sur les dits objets qui devront, le cas échéant, leur être rendus, sans frais, à la fin du procès.

Article 12.

Les frais d'arrestation, d'entretien et de transport de l'individu dont l'extradition aura été accordée, ainsi que ceux de consignation et de transport des objets qui, aux termes de l'article précédent, doivent être restitués ou remis, resteront à la charge des deux États dans les limites de leurs territoires respectifs.

Les frais de transport ou autres sur le territoire des États intermédiaires sont à la charge de l'Etat réclamant.

Les frais de transport ou autres par mer resteront également à la charge de l'Etat réclamant.

L'individu à extrader sera conduit au port du pays requis, ou au point de la frontière que désignera le Gouvernement réclamant.

Article 13.

Si l'individu réclamé et arrêté dans les conditions de la présente convention, n'est pas livré et emmené dans les trois mois après son arrestation, il sera mis en liberté et ne pourra plus être réclamé pour la même cause.

Article 14.

L'extradition, par voie de transit sur les territoires respectifs des Etats contractants, d'un individu n'appartenant pas au pays de transit, sera accordée sur la simple production, en original ou en expédition authentique, de l'un des documents mentionnés dans l'article 9, pourvu que le fait, servant de base à l'extradition, soit compris dans la présente convention et ne rentre pas dans les prévisions des articles 4 et 6.

Les frais de transit seront à la charge de la partie requérante.

Article 15.

Lorsque dans la poursuite d'une affaire pénale non politique, l'audition de personnes se trouvant dans l'un des deux pays, ou tout autre acte d'instruction seront jugés nécessaires, une commission rogatoire accompagnée, le cas échéant, d'une traduction en langue française, sera adressée à cet effet par la voie diplomatique et il y sera donné suite en observant les lois du pays dans lequel l'audition ou l'acte d'instruction devra avoir lieu.

Toutefois les commissions rogatoires tendant à faire opérer soit une visite domiciliaire, soit la saisie du corps du délit ou de pièces à conviction, ne pourront être exécutées que pour un des faits énumérés à l'article 2 et sous la réserve exprimée au dernier paragraphe de l'article 11 ci-dessus.

Les Gouvernements respectifs renoncent au remboursement des frais résultant de l'exécution des commissions rogatoires en matière pénale, même dans le cas où il s'agirait d'expertise, pourvu toutefois que cette expertise n'ait pas entrainé plus d'une vacation.

Article 16.

En matière pénale non politique, lorsque le Gouvernement de l'un des deux pays jugera nécessaire la notification d'un acte de procédure ou d'un jugement à un individu résidant sur le territoire de l'autre pays, la pièce, transmise diplomatiquement et, le cas échéant, accompagnée d'une traduction en langue française, sera signifiée à la personne à la requête du ministère public du lieu de la résidence par les soins d'un officier compétent, et l'original constatant la notification sera renvoyé par la même voie au Gouvernement requérant sans restitution des frais.

Article 17.

Lorsque, dans une cause pénale non politique, instruite dans l'un des deux pays, la communication de pièces de conviction ou de documents,

se trouvant entre les mains des autorités de l'autre pays, sera jugée nécessaire ou utile, la demande en sera faite par la voie diplomatique et on y donnera suite, à moins que des considérations particulières ne s'y opposent et sous l'obligation de renvoyer les pièces et documents.

Les Gouvernements contractants renoncent au remboursement des frais résultant, dans les limites de leurs territoires respectifs, de l'envoi et de la restitution des pièces de conviction et documents.

Article 18.

Les deux Gouvernements s'engagent à se communiquer réciproquement, sans restitution de frais, les condamnations pour crimes ou délits de toute espèce qui auront été prononcées par les tribunaux de l'un des deux Etats contre les sujets de l'autre.

Cette communication sera effectuée moyennant l'envoi par la voie diplomatique d'un bulletin ou extrait, le cas échéant, accompagné d'une traduction en langue française, de la décision définitive, au Gouvernement du pays auquel appartient le condamné.

Article 19.

Le présent traité entrera en vigueur dix jours après sa publication dans les formes prescrites par les lois des deux pays.

Les faits antérieurs à la mise en vigueur du traité ne pourront être l'objet d'une demande d'extradition que dans le cas où les personnes réclamées se seraient réfugiées sur le territoire de l'Etat requis après la signature.

Chacune des parties contractantes pourra en tout temps dénoncer le présent traité en prévenant l'autre partie de son intention six mois à l'avance.

Il sera ratifié et les ratifications en seront échangées à Athènes dans un délai de six mois ou plus tôt si faire se peut.

En foi de quoi, les plénipotentiaires respectifs l'ont signé et y ont apposé leurs cachets.

Fait en double expédition à Athènes le 26 juin/9 juillet mil neuf cent un.

(L. S.) (Signé) *A. Romanos.*
(L. S.) (Signé) *Guillaume.*

Ministère des Affaires Etrangères.

Athènes le 26 juin/9 juillet 1901.

Son Excellence Monsieur A. Romanos Ministre des Affaires Etrangères,
A Son Excellence Monsieur le Baron Guillaume Envoyé Extraordinaire et Ministre Plénipotentiaire de Belgique.

Monsieur le Ministre,

Au moment de signer avec Votre Excellence le traité d'extradition en date de ce jour je considère utile de stipuler que le Gouvernement

requérant, en fournissant au Gouvernement requis les explications réclamées, mettra en même temps à la disposition de ce dernier tous les documents nécessairres ou utiles pour éclairer sa conviction.

Je prie Votre Excellence de me faire connaître si nous sommes d'accord sur ce point et je saisis l'occasion de lui renouveler les assurances de ma haute considération.

(Signé) *A. Romanos.*

Légation de Belgique.

Athènes le 26 juin / 9 juillet 1901.

Son Excellence Monsieur le Baron Guillaume Envoyé Extraordinaire et Ministre Plénipotentiaire de Belgique,

à Son Excellence Monsieur A. Romanos Ministre des Affaires Etrangères.

Mousieur le Ministre,

J'ai l'honneur d'accuser la réception à Votre Excellence de son office en date de ce jour, et je m'empresse de lui faire connaître que nous sommes d'accord pour stipuler que le Gouvernement requérant, en fournissant au Gouvernement requis les explications réclamées, mettra en même temps à sa disposition tous les documents nécessaires ou utiles pour éclairer sa conviction.

Je saisis avec empressement cette occasion de renouveler à Votre Excellence les assurances de ma haute considération.

(Signé) *Guillaume.*

Protocole additionnel.

Les soussignés prévoyant que l'échange des ratifications sur la convention d'extradition conclue le 26 juin/9 juillet 1901 entre la Grèce d'une part et la Belgique d'autre part, ne pourra, par suite de circonstances indépendantes de la volonté des Hautes parties contractantes, être opéré dans le délai stipulé par l'article 19 de la dite convention, se sont réunis aujourd'hui et sont convenus de proroger ce délai de 6 mois à partir du 26 décembre 1901/9 janvier 1902.

Fait en double à Athènes, le 5/18 décembre 1901.

Le Ministre des Affaires Etrangères de Grèce	Les Chargé d'Affaires de Belgique à Athènes
(Signé) *Alexandre Zaïmis.*	(Signé) *Jules le Jeune.*

Protocole additionnel.

Les soussignés prévoyant que l'échange des ratifications sur la convention d'extradition conclue le 26 juin/9 juillet 1901, entre la Grèce d'une part et la Belgique d'autre part, ne pourra, par suite de circonstances indépendantes de la volonté des Hautes parties contractantes, être

opéré dans le délai stipulé par le protocole additionnel du 5/18 décembre 1901, se sont réunis aujourd hui et sont convenus de proroger ce délai d'un an à partir du 26 juin/9 juillet 1902.

Fait en double à Athènes, le 27 mai (9 juin) 1902.

Le Président du Conseil
Ministre des Affaires Etrangères de Grèce
(Signé) *Alexandre Zaïmis.*

Le Ministre de
Belgique à Athènes
(Signé) *Guillaume.*

Protocole additionnel.

Les soussignés prévoyant que l'échange des ratifications sur la Convention d'extradition conclue le 26 juin/9 juillet 1901 entre la Grèce, d'une part, et la Belgique, d'autre part, ne pourra, par suite de circonstances indépendantes de la volonté des Hautes Parties contractantes, être opéré dans le délai stipulé par le Protocole du 9 juin 1902, se sont réunis aujourd'hui et sont convenus de proroger ce délai d'un an à partir du 26 juin (9 juillet) 1903 mil neuf cent trois.

Fait en double, à Athènes, 9/22 mai 1903.

Le Ministre des Affaires
Etrangères.
(Signé) *A. G. Skousès.*

Le Ministre de
Belgique à Athènes.
(Signé) *Guillaume.*

25.

ETATS-UNIS D'AMÉRIQUE, PAYS-BAS.

Convention d'extradition; signée à Washington, le 18 janvier 1904.*)

Publication officielle des Etats-Unis d'Amérique.

The United States of America and Her Majesty the Queen of the Netherlands, having judged it expedient to extend to their respective island possessions and colonies the Convention for the extradition of criminals, concluded at Washington on June 2, 1887,**) by means of an additional Convention, have to that end appointed as their plenipotentiaries:

The President of the United States of America: John Hay, Secretary of State of the United States; and

Her Majesty the Queen of the Netherlands: Baron Willem Alexander Frederik Gevers, Her Majesty's Envoy Extraordinary and Minister Plenipotentiary to the United States;

*) Les ratifications ont été échangées à Washington le 28 mai 1904.
) V. **N. R. G. 2e s. XVII, 120.

who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following articles:

Article I.

The provisions of the Convention for the extradition of criminals concluded at Washington June 2, 1887, shall be applicable to the island possessions of the United States of America and the colonies of the Netherlands; but, since they are based upon the law of the mother country, only provided that they are compatible with the laws or regulations in force in those island possessions and colonies, and with the observance of the following stipulations:

Article II.

In addition to the persons mentioned in article II of that Convention, those shall also be surrendered who are charged with or have been convicted of the crime of bribery, provided it be an extradition crime by the laws or regulations in force in the respective island possessions and colonies of the contracting parties, or of the crime of piracy by statute or by the law of nations.

Article III.

Application for the surrender of a criminal may be made directly to the governor or chief magistrate of the island possession or colony in which the criminal has sought refuge, by the governor or chief magistrate of an island possession or colony of the other contracting party, provided that both island possessions or colonies are situated in Asia, or both in America (including the West India Islands); in making such application, the intervention of a consular officer in such a possession or colony may be used, although no modification shall thereby be made in his capacity as a commercial agent. The aforesaid governors or chief magistrates shall have authority either to grant the extradition or to refer the matter for decision to the mother country. In all other cases, application for extradition shall be made through the diplomatic channel.

Article IV.

The beginning of paragraph 2 (in the alternat paragraph 1) of article XII oft the Convention of June 2, 1887, shall, as regards the Dutch East Indies read as follows: „It shall be lawful for any competent authority“, etc.

Article V.

In the cases of direct application for extradition described in article III of the Convention, the certificate mentioned in the second (first in the alternat) paragraph of the said article XII may be given by the governor or the chief magistrate of the Dutch Colony; the certificate mentioned in the first (second in alternat) paragraph of the last named article, by the Chief Magistrate of the North American island possession. The term of preliminary arrest provided for in article XII of the Convention of June 2, 1887, shall for the enforcement of this article, be made sixty days.

Article VI.

The present additional Convention shall take effect three months after the exchange of the instruments of ratification. It shall remain in force for six months after a declaration to the contrary, made by one of the two Governments. Nevertheless, it shall be considered to have been denounced by the fact of the denunciation of the Convention of June 2, 1887.

It shall be ratified, and the instruments of ratification shall be exchanged as speedily as possible.

In testimony whereof, the respective plenipotentiaries have signed the present convention, in duplicate and have hereunto affixed their seals.

Done at Washington in the English an Dutch languages, on the eighteenth day of January in the year of our Lord nineteen hundred and four.

(Seal.) *John Hay.*
(Seal.) *Gevers.*

26.

ETATS-UNIS D'AMÉRIQUE, CUBA.

Traité d'extradition; signé à Washington, le 6 avril 1904.*)

Publication officielle des Etats-Unis d'Amérique.

The United States of America and the Republic of Cuba, being desirous to confirm their friendl relations and cooperate to promote the cause of justice, have resolved to conclude a treaty for the extradition of fugitives from justice between the United States of America and the Republic of Cuba, and have appointed for that purpose the following Plenipotentiaries:

The President of the United States of America, John Hay, Secretary of State of the United States of America; and

The President of the Republic of Cuba, Gonzalo de Quesada, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Cuba to the United States of America:

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following:

Article I.

The Government of the United States of America and the Government of the Republic of Cuba mutually agree to deliver up persons who, having been charged as principals, accomplices or accessories with or convicted of any crimes or offenses specified in the following article, and committed within the jurisdiction of one of the high contracting parties, shall seek

*) Les ratifications ont été échangées à Washington, le 31 janvier 1905.

an asylum or be found within the territories of the other: Provided that this shall only be done upon such evidence of criminality as according to the laws of the place where the fugitive or person so charged shall be found, would justify his or her apprehension and commitment for trial if the crime or offense had been there committed.

Article II.

Extradition shall be granted for the following crimes and offenses:

1. Murder, comprehending the offenses expressed in the Penal Code of Cuba as assassination, parricide, infanticide and poisoning; manslaughter, when voluntary; the attempt to commit any of these crimes.

2. Arson.

3. Robbery, defined to be the act of feloniously and forcibly taking from the person of another money, goods, documents, or other property, by violence or putting him in fear; burglary; housebreaking and shopbreaking.

4. Forgery or the utterance of forged papers, or falsification of the official acts or documents of the Government or public authority, including courts of justice, or the utterance or fraudulent use of any of the same.

5. The fabrication of counterfeit money, whether coin or paper, counterfeit titles or coupons of public debt, bank-notes, or other instruments of public credit; of counterfeit seals, stamps, dies and marks of state or public administration, and the utterance circulation or fraudulent use of any of the above mentioned object.

6. Embezzlement by public officers or depositaries: embezzlement by persons hired or salaried to the detriment of their employers; obtaining money, valuable securities or other personal property by false devices, when such act is made criminal by the laws of both countries and the amount of money or value of the property so obtained is not less than two hundred dollars in gold.

7. Fraud or breach of trust (or the corresponding crime expressed in the Penal Code of Cuba as defraudation) by a bailee, banker, agent, factor, trustee, or other person acting in a fiduciary capacity, or director or member or officer of any company, when such act is made criminal by the laws of both countries and the amount of money or the value of the property misappropriated is not less than two hundred dollars in gold.

8. Perjury; subornation of perjury.

9. Bribery; defined to be the giving, offering or receiving of a reward to influence one in the discharge of a legal duty.

10. Rape; bigamy.

11. Wilful and unlawful destruction or obstruction of railroads, trains, bridges, vehicles, vessels or other means of transportation or public or private buildings, wehn the act committed endangers human life.

12. Crimes committed at sea, to wit:

a) Piracy, by statute or by the law of nations.

b) Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas against the authority of the master.

c) Wrongfully sinking or destroying a vessel at sea, or attempting to do so.

d) Assaults on board a ship on the high seas with intent to do grievous bodily harm.

13. Crimes and offenses against the laws of both countries for the suppression of slavery and slavetrading.

14. Kidnapping of minors or adults, defined to be the abduction or detention of a person or persons in order to exact money from them or their families, or for any other unlawful end.

15. Larceny, defined to be the theft of money, effects, documents, horses, cattle, live-stock or any other movable property of the value of more than fifty dollars.

16. Obtaining by threats of doing injury, money, valuables or other personal property.

17. Mayhem and other wilful mutilation causing disability or death.

Extradition is to take place for participation in any of the crimes and offenses mentioned in this treaty not only as principal or accomplices, but as accessories in any of the crimes or offenses mentioned in the present article, provided such participation may be punished, in the United States as a felony and in the Republic of Cuba by imprisonment, hard labor or capital punishment.

Article III.

Requisitions for the surrender of fugitives from justice shall be made by the diplomatic agents of the contracting parties, or in the absence of these from the country or its seat of government, may be made by the superior consular officers.

If the person whose extradition is requested shall have been convicted of a crime or offense, a duly authenticated copy of the sentence of the court in which he was convicted, or if the fugitive is merely charged with a crime or offense, a duly authenticated copy of the warrant of arrest in the country where the crime or offense has been committed, and of the depositions or other evidence upon which such warrant was issued, shall be produced. In both cases whenever possible all facts and data necessary to establish the indentity of the person whose extradition is sought shall also be presented.

The extradition of the fugitives under the provisions of this treaty shall be carried out in the United States and in the Republic of Cuba, respectively, in conformity with the laws regulating extradition for the time being in force in the State in which the demand for the surrender is made.

Article IV.

Where the arrest and detention of a fugitive in the United States are desired on telegraphic or other information in advance of the presentation of formal proof, complaint on oath, as provided by the statutes of the United States. shall be made by an agent of the Government of Cuba

before a judge or magistrate authorized to issue warrants of arrest in extradition cases.

When, under the provisions of this article, the arrest and detention of a fugitive are desired in the Republic of Cuba, the proper course shall be to apply to the Foreign Office, which will immediately cause the necessary steps to be taken in order to secure the provisional arrest or detention of the fugitive.

The provisional detention of a fugitive shall cease and the prisoner be released if a formal requisition for his surrender accompanied by the necessary evidence of his guilt has not been produced under the stipulations of this Treaty, within two months from the date of his provisional arrest or detention.

Article V.

Neither of the contracting parties shall be bound to deliver up its own citizens under the stipulations of this Treaty.

Article VI.

A fugitive criminal shall not be surrendered if the offense in respect of which his surrender is demanded be of a political character, or if it is proved that the requisition for his surrender has, in fact, been made with a view to try or punish him for an offense of a political character.

An attempt against the life of the head of a foreign government or against that of any member of his family when such attempt comprises the act either of murder, assassination, or poisoning, shall not be considered a political offense or an act connected with such an offense.

No person surrendered by either of the contracting parties to the other shall be triable or tried, or be punished, for any political crime or offense, or for any act connected therewith, committed previously to his extradition.

If any question shall arise as to whether a case comes within the provisions of this article, the decision of the authorities of the government on which the demand for surrender is made, or which may have granted the extradition shall be final.

Article VII.

Extradition shall not be granted, in pursuance of the provisions of this Treaty if legal proceedings or the enforcement of the penalty for the act committed by the person claimed has become barred by limitation, according to the laws of the country to which the requisition is addressed.

Article VIII.

No person surrendered by either of the contracting parties to the other shall, without his consent, freely granted and publicly declared by him, be triable or tried or be punished for any crime or offense committed prior to his extradition, other than that for which he was delivered up, unless the said person shall have been at liberty to leave the country

for a month after having been tried, and in case of conviction, a month after having served sentence or being pardoned.

Article IX.

All articles found in the possession of the person to be surrendered, whether being proceeds of the crime or offense, or being material as evidence in making proof of the crime or offense, shall, so far as practicable, and in conformity with the laws of the respective countries, be seized and surrendered with his person. Nevertheless the rights of third parties with regard to such articles shall be duly respected.

Article X.

If the individual claimed by one of the contracting parties, in pursuance of the present Treaty, shall also be claimed by one or several other powers on account of crimes or offenses committed within their respective jurisdictions, his extradition shall be granted to the state whose demand is first received, unless the government from which extradition is sought is bound by treaty to give preference tho another.

If the said individual shall be indicted or convicted in the country from which extradition is sought, his extradition may be deferred until the proceedings are abandoned, the individual set at liberty or discharged or has served his sentence.

Article XI.

The expenses incurred in the arrest, detention, examination and delivery of fugitives under this treaty shall be borne by the State in whose name the extradition is sought: Provided, that the demanding government shall not be compelled to bear any expense for the services of such public officers of the government from which extradition is sought as receive afixed salary; and, provided, that the charge for the services of such public officers as receive only fees or perquisites shall not exceed their customary fees for the acts or services performed by them had such acts or services been performed in ordinary criminal proceedings under the laws of the country of which they are officers.

Article XII.

The present treaty shall take effect on the thirtieth day after the date of the exchange of ratifications.

The ratifications of the present treaty shall be exchanged at Washington as soon as possible, and it shall remain in force for a period of six months after either of the contracting governments shall have given notice of a purpose to terminate it.

In witness whereof, the respective Plenipotentiaries have signed the above articles both in the English and Spanish languages, and hereunto affixed their seals.

Done in duplicate, at the City of Washington this sixth day of April, nineteen hundred and four.

(Seal) *Gonzalo de Quesada.*
(Seal) *John Hay.*

27.

NORVÈGE, ESPAGNE.

Arrangement destiné à modifier le traité d'extradition, du 15 mai 1885; signé à Madrid, le $\frac{\text{6 avril}}{\text{10 décembre}}$ 1904.

Overenskomster med fremmede Stater, No. 2, 1905.

Monsieur le Ministre d'Etat,

La nouvelle loi pénale norvégienne du 22 mai 1902 qui entrera en vigueur le 1 janvier 1905 et dont Vous trouverez un exemplaire joint à ce pli, avec loi de promulgation y relative, vient abolir en Norvège la peine des „travaux forcés".

Il ressort du § 7 de la loi de promulgation susmentionnée qu'une certaine période de travaux forcés d'après l'ancienne législation correspondra à la même période „d'emprisonnement" d'après la nouvelle loi et que l'expression „une peine plus forte que l'emprisonnement" doit être interprétée dorénavant „une peine plus forte que l'emprisonnement pendant trois mois".

Or, la convention d'extradition conclue entre les Royaumes Unis et l'Espagne en date du 15 mai 1885 stipule dans son article I que les infractions yénumérées soient passibles en Suède ou en Norvège „d'une peine plus forte que la réclusion".

Cette stipulation n'étant plus en harmonie avec la nouvelle loi norvégienne il faut que l'art. I de la convention soit appliqué, dès le 1 janvier 1905, en tant qu'il s'agit de la législation norvégienne comme s'il était rédigé comme suit: „une peine plus forte que l'emprisonnement pendant trois mois".

D'ordre de mon Gouvernement, j'ai l'honneur de porter ce qui précède à la connaissance de Votre Excellence en La priant de vouloir bien m'intimer l'acceptation du Gouvernement de S. M. Catholique de cette interprétation exigée par la nouvelle loi norvégienne afin qu'elle soit officiellement constatée par cet échange de Notes.

Je profite de cette occasion etc. etc.

Madrid, le 6 avril 1904.

(Signé) *F. Wedel Jarlsberg.*

Son Excellence
Monsieur F. Rodriguez San Pedro,
Ministre d'Etat etc. etc. etc.

Excmo Señor.

Muy Señor mio: en contestacion á la Nota de V. E. fecha 6 de Abril del presente año tengo la honra de participar á V. E. que segun dice el Ministerio de Gracia y Justicia no hay inconveniente para que el articulo I del convenio de extradicion de 15 de Mayo de 1885 en el cual se dice que las infracciones allí estipuladas se castiguen en Suecia y Noruega „con una pena mas fuerte que la reclusion", se entienda desde el 1° de Enero de 1905, por lo que se refiere á Noruega, como si estuviese redactado como sigue „una pena mas fuerte que la prison durante tres meses", á fin de que dicho articulo I esté en armonia con la nueva ley penal noruega de 22 de Mayo de 1902 que entrará en vigor el 1° de Enero de 1905 y en la cual se declaran abolidos en Noruega los trabajos forzados.

Aprovecho gustoso esta oportunidad etc. etc.

Madrid, 10 de Diciembre de 1904.

El Subsecretario
(Firmado) *A. de Castro y Casaleiz.*

Señor Baron de Wedel Jarlsberg,
Enviado Extraordinario y Ministro Plenipotenciario
de S. M. el Rey de Suecia y de Noruega.

28.

ÉTATS-UNIS D'AMÉRIQUE, HAÏTI.

Traité d'extradition; signé à Washington, le 9 août 1904.*)

Publication officielle des Etats-Unis d'Amérique.

The United States of America and the Republic of Haiti, wishing to insure the proper administration of justice, have resolved to conclude a treaty for the purpose of mutually surrendering persons who, being charged with one of the crimes hereinafter specified, or having been sentenced for one of these crimes, shall, by flight, have escaped judicial prosecution or the consequences of their sentence.

To this end they have appointed their Plenipotentiaries, to wit:

The President of the United States of America, John Hay, Secretary of State of the United States of America; and,

The President of the Republic of Haiti, Mr. J. N. Leger, Envoy Extraordinary and Minister Plenipotentiary of Haiti at Washington;

*) Les ratifications ont été échangées, le 15 décembre 1904.

Who after having communicated their respective full powers, found in good and due form, have agreed on the following articles:

Article I.

The High Contracting Parties agree to deliver up to their respective justice, persons who, being accused or convicted of any of the crimes hereinafter enumerated, committed within the limits of jurisdiction of the demanding party, shall have afterwards taken refuge or shall be found in the territory of the other; provided, that this shall only be done upon such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial if the crime or offense had been there committed.

Article II.

The crimes for which extradition shall be granted are the following:

1. Murder (including assassination, parricide, infanticide, poisoning, and voluntary manslaughter).

2. Counterfeiting of money, either coin or paper; utterance or circulation of counterfeit or altered money; introduction of counterfeit or altered money into the territory of one of the Contracting Parties.

3. Counterfeiting of any securities issued by one of the Contracting Parties, of bonds or coupons of the public debt, of bank notes or other instruments of credit authorized by law; utterance, use, or introduction, in the territory of one of the Parties, of the aforementioned counterfeit or falsified securities or notes.

4. Forging of the public or private documents; use of forged documents.

5. Larceny; robbery, or that which corresponds to the crime provided for and punished by the laws of Haiti as theft committed with arms in hand or by violence or threats, or on the public highways; burglary, or that which corresponds to the crime provided for and punished by the laws of Haiti as theft committed by breaking or climbing into, or using false keys, or at night in a place inhabited or used as a dwelling.

6. Embezzling by public officers or by persons hired or salaried, to the detriment of their employers; provided, that the amount of money or value of the property embezzled is not less than two hundred dollars.

7. Arson; destruction of railways, bridges, tramways, vessels, public edifices or other buildings, endangering human life.

8. Perjury; subornation of perjury; bribery, defined to be the giving or receiving of a reward to influence one in the discharge of a legal duty.

9. Rape.

10. Bigamy.

11. Kidnapping of minors.

12. Piracy, as defined by statute or international law.

Article III.

Extradition shall be also be granted for the attempt to commit one of the crimes above enumerated, and against any accomplice of these

crimes or attempts at crimes, when such complicity and attempt are punishable by the laws of the Party demanding the extradition.

Article IV.

Neither of the Contracting Parties shall be obliged to deliver up its own citizens.

Article V.

If the person claimed is under prosecution, either in the United States or Haiti, for any other crime than that upon which the demand for extradition is based, the extradition shall be postponed until the judgment is pronounced, and, if the person is convicted, until the sentence imposed is fully served or remitted.

The extradition may also be postponed when the person claimed is being prosecuted for a civil offense in the country of which the demand is made. In this case it will not take place until after the execution of the judgment or the remission of the penalty.

Article VI.

A fugitive who shall have been claimed at the same time by two or more States, shall be delivered up to the State which has first presented its demand; provided, that the government from which extradition is sought is not bound by treaty to give preference otherwise.

Article VII.

The provision of the present treaty shall not apply to offenses of a political character. The assassination or poisoning of the head of a government, or any other attempt against the life of the head of a government, shall not be considered as a crime of a political character.

A person whose extradition shall have been granted on account of one of the crimes mentioned in Article II of this Convention shall not, in any case be tried for a political offense or for an act connected with a political offense committed prior to the demand for extradition, unless such person has had abundant opportunity to quit the country during the month following that in which he was set at liberty either as a result of acquittal, expiration of his sentence, or pardon.

Article VIII.

A person surrendered cannot, without the consent of the State which has granted the extradition, be detained or tried in the State which has obtained his extradition, for any other crime or causes than those which have given rise to the extradition. This stipulation does not apply to crimes committed subsequently to the extradition.

However, a person who has had ample opportunity to quit the country which has obtained his extradition, and who shall be found there a month after his release by acquittal, the expiration of his sentence, or pardon, may be arrested and tried, without the consent of the State which has granted the extradition, for other crimes than those which have given rise to the demand for extradition.

Article IX.

Where the arrest and detention of a fugitive in the United States are desired on telegraphic or other information in advance of the presentation of the formal proofs, complaint on oath, as provided by the Statutes of the United States, shall be made by an agent of the Haitian Government before a judge or other magistrate authorized to issue warrants of arrest in extradition cases.

In Haiti the diplomatic or consular agent of the United States shall address, through the Ministry of Foreign Relations, a complaint to the government commissioner or any other magistrate authorized to issue warrants of commitment, the provisional arrest and detention of a fugitive shall cease and the prisoner be released if a formal requisition for his surrender, accompanied by the necessary evidence of criminality, has not been produced under the stipulations of this Convention within sixty days from the date of his arrest.

Article X.

Every demand for extradition shall be made through the diplomatic agents of the High Contracting Parties. In case of absence or impediment of these agents, the demand may be presented by the consuls. This demand shall be acted on in conformity with the laws of each of the Parties. Nevertheless, if the person demanded has already been sentenced for one of the crimes hereinbefore enumerated, the requisition shall be merely accompanied by the sentence, duly certified by the competent authority of the State demanding the extradition.

Article XI.

In the investigation which they may have to make, according to their own laws, the authorities of the State of which the demand is made who are qualified to decide on the demand for the extradition, shall admit as entirely valid evidence all depositions or declarations of witnesses coming from the other State, or copies thereof, and warrants issued, provided these documents are signed or certified by a competent magistrate or officer of the State making the demand.

Article XII.

The objects found in the possession of the fugitive and which were obtained by the perpetration of the crime with which he is charged, or which may serve to prove his crime, shall be seized at the time of his arrest and delivered together with his person to the party demanding the extradition. Nervertheless, the rights of third persons to the articles so found shall be respected.

Article XIII.

The expenses of detention, procedure, and delivery, incurred in virtue of the preceding articles, shall be borne by the demanding Party. It is agreed, however, that the State making the demand shall have nothing to pay to the officers of the State to which the demand is addressed who

receive fixed salaries; officers who, having no fixed salary, receive fees, shall not demand any other fees than those generally charged in ordinary criminal procedures.

Article XIV.

The stipulation of the present treaty are applicable to the insular possessions of the United States. In this case the demand shall be addressed to the Governor or principal authority of the possession by the consul of Haiti.

Article XV.

The present treaty shall remain in force until it is denounced; it shall cease to bind the Parties six months after one of them shall have notified its intention to terminate it.

Article XVI.

The present treaty shall be approved and ratified by the competent authority of each of the High Contracting Parties, and the ratifications shall be exchanged at Washington as soon as possible.

In witness whereof, the respective Plenipotentiaries have signed the foregoing articles, and have affixed their seals.

Done in duplicate at Washington, in English and French, this ninth day of August, nineteen hundred and four.

(Seal.) *John Hay.*
(Seal.) *J. N. Leger.*

29.

SUISSE, GRANDE-BRETAGNE.

Convention concernant l'élargissement de l'article XVIII du traité d'extradition du 26 novembre 1880;*) signée à Londres, le 29 juin 1904.**)

Eidgenössische Gesetzsammlung. 1904 et 1905.

Tit.

Der Artikel III des geltenden Auslieferungsvertrages zwischen der Schweiz und Grossbritannien vom 26. November 1880 enthält im Absatz 3 die Bestimmung, dass das diplomatische Auslieferungsbegehren innerhalb 30 Tagen nach stattgehabter provisorischer Verhaftung eines Verfolgten zu stellen sei, und Artikel VIII desselben Vertrages schreibt vor, dass die

*) V. **N. R. G.** 2e s. VIII. 673.
**) Ratifiée à Londres, le 29 mars 1905.

gemäss dem englischen Verfahren für die Bewilligung der Auslieferung vorzulegenden Beweise binnen zwei Monaten vom Tage der Ergreifung des Flüchtigen an beigebracht werden müssen. Es hat sich nun in der Praxis gezeigt, dass die letztere Frist äusserst kurz bemessen ist, wenn es sich um die Übersendung der Beweisakten nach den englischen Kolonien, z. B. nach Australien, handelt, im Falle der Verfolgte dort auf telegraphisches Ansuchen hin festgenommen worden ist. Daher haben wir durch unsere Gesandtschaft in London die Anfrage an die grossbritannische Regierung richten lassen, ob nicht für die Kolonien und auswärtigen Besitzungen eine Ausdehnung jener Frist bis auf drei Monate eintreten könnte, was mit den Bestimmungen im Art. 17, Abs. 2 des Bundesgesetzes über die Auslieferung vom 22. Januar 1892 im Einklang stünde.

In ihrer Antwort hierauf hat die grossbritannische Regierung ihre volle Zustimmung zu der gedachten Ausdehnung der Frist im Artikel VIII des erwähnten Auslieferungsvertrages gegeben und machte noch den Vorschlag, es möchte auch die im Art. III, Abs. 3 desselben Vertrages vorgesehene Frist von 30 Tagen auf 6 Wochen verlängert werden. Sie bemerkte indessen hierbei, eine solche Abänderung des Vertrages setze den Abschluss einer förmlichen bezüglichen Übereinkunft voraus, und sie sehe daher der Vorlage eines entsprechenden Entwurfes seitens der Schweiz entgegen. Infolgedessen wurde von uns ein solches Abkommen ausgearbeitet, das einzig darin zu bestehen hatte, dass ein Zusatz zu dem ersten Alinea des auf die Kolonien und auswärtigen Besitzungen Grossbritanniens sich beziehenden Artikels XVIII des schweizerisch-englischen Auslieferungsvertrages vereinbart werde. Der der grossbritannischen Regierung zur Prüfung vorgelegte Entwurf wurde von dieser unverändert angenommen, und es erfolgte am 29. Juni 1904 die Unterzeichnung der Übereinkunft in französischer und englischer Sprache zu London durch die beidseitigen Delegierten.

Wir beehren uns nun, Ihnen hiermit die betreffende Übereinkunft zu unterbreiten, und ersuchen Sie, derselben durch Genehmigung des nebenstehenden Beschlussentwurfes die Ratifikation erteilen zu wollen.

Genehmigen Sie, Tit., die Versicherung unserer vollkommenen Hochachtung.

Bern, den 16. September 1904.

Im Namen des schweiz. Bundesrates,

Der Bundespräsident:

Comtesse.

Der Kanzler der Eidgenossenschaft:

Ringier.

Nachdem vom Bundesrat der schweizerischen Eidgenossenschaft und von der Regierung Grossbritanniens und Irlands die Ausdehnung der im Artikel III, Absatz 3, und im Artikel VIII des zwischen dem schweizerischen Bundesrat einerseits und weiland Ihrer Majestät der Königin des vereinigten Königreiches von Grossbritannien und Irland, Kaiserin von Indien etc. anderseits am 26. November 1880 über die gegenseitige Auslieferung von Verbrechern abgeschlossenen Staatsvertrages festgesetzten Fristen von 30 Tagen beziehungsweise 2 Monaten für den Verkehr zwischen der Schweiz und den Kolonien sowie auswärtigen Besitzungen Grossbritanniens als notwendig erkannt worden ist, haben die hierzu bevollmächtigten Unterzeichneten nachstehendes vereinbart:

Dem ersten Absatz von Artikel XVIII des erwähnten Auslieferungsvertrages wird folgende Bestimmung beigefügt:

„Indessen soll im Verkehr zwischen der Schweiz und diesen Kolonien und auswärtigen Besitzungen die in Artikel III, Absatz 3 für die Stellung des diplomatischen Auslieferungsbegehrens vorgesehene Frist sechs Wochen und diejenige in Artikel VIII betreffend die Vorlage des zur Bewilligung der Auslieferung genügenden Beweises drei Kalendermonate betragen.“

Die gegenwärtige Übereinkunft tritt in Kraft, sobald die Ratifikationsurkunden ausgetauscht sein werden. Sie soll dieselbe Kraft und Dauer haben, wie der Auslieferungsvertrag vom 26. November 1880, auf welchen sie sich bezieht.

The Federal Council of the Swiss Confederation and the Government of His Majesty the King of the United Kingdom of Great Britain and Ireland, having deemed it necessary to extend, so far as regards the relations of Switzerland with the British Colonies and foreign possessions, the periods of thirty days and two months respectively fixed by Article III, paragraph 3, and Article VIII, of the Treaty concluded on the 26th November 1880, between the Swiss Federal Council and Her late Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, & c., respecting the extradition of persons accused or condemned, the Undersigned, duly authorized to that effect by their respective Governments, have agreed ad follows:

The following stipulation is added to the first paragraph of Article XVIII of the Treaty of Extradition:

„Nevertheless, so far as regards the relations of Switzerland with these Colonies and foreign possessions, the period of time fixed by Article III, paragraph 3, within which the requisition for extradition is to be made through the diplomatic channel, shall be six weeks; and that provided by Article VIII for the production of proof sufficient to warrant the extradition shall be three calendar months.“

The present Convention shall come into force from the date when the ratifications shall be exchanged. It shall have the same force and duration as the Treaty of Extradition of the 26th November 1880, to which it relates.

Sie wird ratifiziert, und es sollen die Ratifikationsurkunden sobald als möglich in London ausgewechselt werden.

Zu Urkund dessen haben die Unterzeichneten diese Übereinkunft gefertigt und ihre Siegel beigedrückt:

So geschehen zu London in doppelter Ausfertigung, den 29. Juni 1904.

(L. S.) (sig.) *Carlin.*
(L. S.) (sig.) *Lansdowne.*

It shall be ratified, and the ratifications shall be exchanged at London as soon as possible.

In witness whereof the Undersigned have signed the present Convention, and have affixed their seals thereto.

Done at London, in duplicate, the 29th day of June 1904.

(L. S.) (sig.) *Carlin.*
(L. S.) (sig.) *Lansdowne.*

30.

GRANDE-BRETAGNE, SUÈDE ET NORVÈGE.

Traité pour le mariage du prince royal Gustave-Adolphe de Suède et Norvège avec la princesse Marguerite de Grande-Bretagne; signé à Stockholm, le 20 mai 1905.*)

Treaty Series. No. 18. 1905.

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, on the one part, and His Majesty the King of Sweden and of Norway on the other part, already connected by ties of friendship, having judged it proper that an alliance should be contracted between their respective Royal Houses by a marriage agreed to on both sides, between Her Royal Highness Margaret Victoria Augusta Charlotte Norah, Princess of Great Britain and Ireland, niece of His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, and elder daughter of His Royal Highness Arthur William Patrick Albert, Duke of Connaught and Strathearn, Earl of Sussex, Prince of Saxe Coburg and Gotha, &c., &c., &c., and of Her Royal Highness Louise Margaret, Princess of Prussia;

And His Royal Highness Oscar Frederick William Olaf Gustavus Adolphus, Duke of Scania, eldest son of His Royal Highness Oscar Gustavus Adolphus, Crown Prince of Sweden and of Norway, Duke of Vermland, &c., &c., &c., and of Her Royal Highness Sophie Maria Victoria,

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*) L'échange des ratifications a été opéré à Stockholm, le 14 juni 1905.

Princess of Baden, and grandson of His Majesty the King of Sweden and of Norway;

And the two High Betrothed Parties, as also His Royal Highness the Prince Oscar Gustavus Adolphus, and Her Royal Highness Princess Sophie Maria Victoria, his Consort, having declared their consent to such alliance;

In order, therefore, to attain so desirable an end, and to treat upon, conclude, and confirm the Articles of the Treaty of the said marriage, His Britannic Majesty, on the one part, and His Majesty the King of Sweden and of Norway on the other part, have named as their Plenipotentiaries, that is to say:

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, Sir James Rennell Rodd, K.C.M.G., C.V.O., C.B., His Majesty's Envoy Extraordinary and Minister Plenipotentiary at Stockholm;

And His Majesty the King of Sweden and of Norway, Count August Louis Fersen Gyldenstolpe, Grand Cross of the Order of the Polar Star, Commander of the first class of the Order of St. Olaf, His Majesty's Minister for Foreign Affairs;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following Articles:

Article I.

It is concluded and agreed that the marriage between Her Royal Highness the Princess Margaret Victoria Augusta Charlotte Norah, eldest daughter of His Royal Highness Arthur William Patrick Albert, Duke of Connaught and Strathearn, Earl of Sussex, Prince of Saxe Coburg and Gotha, &c., &c., &c., and of Her Royal Highness Louise Margaret, Princess of Prussia, and His Royal Highness Prince Oscar Frederick William Olaf Gustavus Adolphus, Duke of Scania, eldest son of His Royal Highness Oscar Gustavus Adolphus, Crown Prince of Sweden and of Norway, Duke of Vermland, &c., &c., &c., and of Her Royal Highness Princess Sophie Maria Victoria of Baden, shall be solemnized in person at Windsor as soon as the same may conveniently be done.

Immediately after the celebration of the marriage a formally authenticated act of the same shall be delivered by the competent authority in good and due form.

Article II.

The settlements to be made on either side in regard to the said marriage of Her Royal Highness the Princess Margaret Victoria Augusta Charlotte Norah, and of His Royal Highness the Prince Oscar Frederick William Olaf Gustavus Adolphus, will be agreed upon and expressed in a separate Marriage Contract.

This Contract shall be deemed to form an integral part of the present Treaty and the High Contracting parties hereby mutually engage themselves to be bound by its terms.

Article III.

The present Treaty shall be ratified, and the ratifications shall be exchanged at Stockholm as soon as possible.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seal of their arms.

Done in duplicate at Stockholm, the 20th day of May, in the year of our Lord 1905.

(L.S.) *Rennell Rodd.*
(L.S.) *Aug. F. Gyldenstolpe.*

31.

ITALIE, PORTUGAL.

Traité d'arbitrage; signé à Lisbonne, le 11 mai 1905.

Gazzetta Ufficiale del Regno d'Italia.

Accordo generale di arbitrato fra l'Italia e il Portogallo.

Il Governo di Sua Maestà il Re d'Italia ed il Governo di Sua Maestà il Re di Portogallo e delle Algarvie, firmatari della Convenzione per il regolamento pacifico dei conflitti internazionali, conchiusa all'Aja il 29 luglio 1899;

Considerando che, coll'art. XIX di tale Convenzione, le Alte Parti contraenti si sono riservata la facoltà di conchiudere degli accordi allo scopo di deferire all'arbitrato tutte le questioni che esse giudicheranno possibile di sottoporre a tale procedimento,

Hanno autorizzato i sottoscritti a conchiudere il seguente accordo.

Art. 1.

Le vertenze d'indole giuridica, o relative all'interpretazione di trattati esistenti tra le due Parti contraenti, che venissero a sorgere, e che non fosse stato possibile di definire in via diplomatica, saranno deferite alla Corte permanente d'arbitrato istituita all'Aja mercè la Convenzione del 29 luglio 1899, a condizione, tuttavia, che tali vertenze non tocchino gli interessi vitali, l'indipendenza o l'onore dei due Stati contraenti, e non concernano gl'interessi di terze Potenze.

Art. 2.

In ogni singolo caso le Alte Parti contraenti, prima di rivolgersi alla Corte permanente di arbitrato, firmeranno un compromesso speciale, il quale determini chiaramente l'oggetto del litigio, la estensione dei poteri degli arbitri ed i termini da osservarsi per ciò che concerne la costituzione del Tribunale arbitrale e le varie fasi della procedura.

Art. 3.

Il presente Accordo è concluso per la durata di cinque anni, decorrenti dal giorno della firma.

Fatto a Lisbona, in doppio esemplare, li 11 maggio 1905.

(L. S.) *A. di Bisio.*
(L. S.) *Antonio Eduardo Villaça.*

32.

GRANDE-BRETAGNE, PORTUGAL.

Arrangement concernant le réglement pacifique des conflits internationaux; signé à Windsor, le 16 novembre 1904.

Treaty series No. 10 1904.

The Government of His Britannic Majesty and the Government of His Most Faithful Majesty the King of Portugal and of the Algarves, signatories of the Convention for the pacific settlement of international disputes, concluded at The Hague on the 29th July, 1899;

Taking into consideration that by Article XIX of that Convention the High Contracting Parties have reserved to themselves the right of concluding Agreements, with a view to referring to arbitration all questions which they shall consider possible to submit to such treatment;

Being moreover desirous of confirming, by a further solemn Agreement, the friendship and alliance which have happily subsisted for so long a period between them, and the two nations which they represent, and of eliminating, as far as possible, from their mutual relations everything which might tend to impair or weaken that friendship and alliance;

Have authorized the Undersigned to conclude the following arrangement:

Article I.

Differences which may arise of a legal nature, or relating to the interpretation of Treaties existing between the two Contracting Parties, and which it may not have been possible to settle by diplomacy, shall be referred to the Permanent Court of Arbitration established at The Hague by the Convention of the 29th July, 1899, provided, nevertheless, that they do not affect the vital interests, the independence, or the honour of the two Contracting States, and do not concern the interests of third Parties.

Article II.

In each individual case the High Contracting Parties, before appealing to the Permanent Court of Arbitration, shall conclude a special Agreement

defining clearly the matter in dispute, the scope of the powers of the Arbitrators, and the periods to be fixed for the formation of the Arbitral Tribunal and the several stages of the procedure.

Article III.

The present Agreement is concluded for a period of five years, dating from the day of signature.

Done in duplicate, Windsor, the sixteenth day of November, 1904.

(L. S.) *Lansdowne.*
(L. S.) *Antonio Eduardo Villaça.*

33.

GRANDE-BRETAGNE, SUISSE.

Arrangement concernant le réglement pacifique des conflits internationaux; signé à Londres le 16 novembre 1904.

Treaty Servies. N. 9. 1904.

The Government of His Britannic Majesty and the Federal Council of the Swiss Confederation, Signatories of the Convention for the pacific settlement of international disputes, concluded at The Hague on the 29th July, 1899:

Taking into consideration that, by Article XIX of that Convention, the High Contracting Parties have reserved to themselves the right of concluding Agreements, with a view to referring to arbitration all questions which they shall consider possible to submit to such treatment.

Have authorized the Undersigned to conclude the following arrangement:

Article I.

Differences which may arise of a legal nature, or relating to the inter-

Le Gouvernement de Sa Majesté Britannique et le Conseil fédéral de la Confédération Suisse, Signataires de la Convention pour le réglement pacifique des conflits internationaux conclue à La Haye le 29 Juillet 1899:

Considérant que, par l'Article XIX de cette Convention, les Hautes Parties Contractantes se sont réservé de conclure des accords en vue du recours à l'arbitrage, dans tous les cas qu'elles jugeront possible de lui soumettre.

Ont autorisé les Soussignés à arrêter les dispositions suivantes:

Article I.

Les différends d'ordre juridique ou relatifs à l'interprétation des Traités

pretation of Treaties existing between the two Contracting Parties, and which it may not have been possible to settle by diplomacy, shall be referred to the Permanent Court of Arbitration established at The Hague by the Convention of the 29th July, 1899, provided, nevertheless, that they do not affect the vital interests, the independence, or the honour of the two Contracting States, and do not concern the interests of third Parties.

existant entre les deux Parties Contractantes qui viendraient à se produire entre elles, et qui n'auraient pu être réglés par la voie diplomatique, seront soumis à la Cour Permanente d'Arbitrage établie par la Convention du 29 Juillet 1899, à La Haye, à la condition toutefois qu'ils ne mettent en cause, ni les intérêts vitaux ni l'indépendance ou l'honneur des deux Etats Contractants, et qu'ils ne touchent pas aux intérêts de tierces Puissances.

Article II.

In each individual case the High Contracting Parties, before appealing to the Permanent Court of Arbitration, shall conclude a special Agreement defining clearly the matter in dispute, the scope of the powers of the Arbitrators, and the periods to be fixed for the formation of the Arbitral Tribunal and the several stages of the procedure.

Article II.

Dans chaque cas particulier, les Hautes Parties Contractantes, avant de s'adresser à la Cour Permanente d'Arbitrage, signeront un compromis spécial, déterminant nettement l'objet du litige, l'étendue des pouvoirs des Arbitres et les délais à observer, en ce qui concerne la constitution du Tribunal Arbitral et la procédure.

Article III.

The present Agreement is concluded for a period of five years dating from the day of signature.

Done in duplicate at London, the 16th day of November, 1904.

Article III.

Le présent Arrangement est conclu pour une durée de cinq années, à partir du jour de la signature.

Fait à Londres, en double exemplaire, le 16 novembre 1904.

(L.S.) *Lansdowne.*
(L.S.) *Carlin.*

34.

ARGENTINE, BOLIVIE, COLOMBIE, COSTA RICA, CHILI, RÉPUBLIQUE DOMINICAINE, EQUATEUR, SALVADOR, ETATS-UNIS D'AMÉRIQUE DU NORD, GUATÉMALA, HAÏTI, HONDURAS, ETATS-UNIS MEXICAINS, NICARAGUA, PARAGUAY, PÉROU, URUGAY.

Traité concernant le réglement par décision arbitrale des Réclamations de dommages pécuniaires; signé à Washington, le 24 mars 1905.*)

Publication officielle des Etats-Unis d'Amérique.

Treaty of Arbitration for Pecuniary Claims.

Their Excellencies the Presidents of the Argentine Republic, Bolivia, Colombia, Costa Rica, Chili, Dominican Republic, Ecuador, El Salvador, the United States of America, Guatemala, Hayti, Honduras, the United Mexican States, Nicaragua, Paraguay, Peru and Uruguay.

Desiring that their respective countries should be represented at the Second International American Conference, sent thereto duly authorized to approve the recommendations, resolutions, conventions and treaties that they might deem convenient for the interests of America, the following Delegates:

For the Argentine Republic. — Their Excellencies Antonio Bermejo, Martín García, Mérou, Lorenzo Anadon.

Traité pour le réglement par décision arbitrale des Réclamations de dommages pécuniaires.

Leurs Excellences le Président de la République Argentine, celui de Bolivie, celui de Colombie, celui de Costa Rica, celui du Chili, celui de la République Dominicaine, celui de l'Equateur, celui du Salvador, celui des Etats-Unis d'Amérique, celui du Guatemala, celui d'Haïti, celui de Honduras, celui des Etats-Unis Mexicains, celui de Nicaragua, celui du Paraguay, celui du Pérou et celui de l'Uruguay,

Désirant que leurs pays respectifs soient représentés à la Seconde Conférence Internationale Américaine, y ont envoyé, dûment autorisés pour approuver les recommandations, décisions, conventions et traités qu'ils jugeraient utiles aux intérêts de l'Amérique, Messieurs les Délégués suivants:

Pour l'Argentine. — Son Excellence Antonio Bermejo, Son Excellence Martín García Mérou, Son Excellence Lorenzo Anadón.

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*) Ratifié.

For Bolivia. — His Excellency Fernando F. Guachalla.

For Colombia. — Their Excellencies Carlos Martinez Silva, General Rafael Reyes.

For Costa Rica. — His Excellency Joaquin Bernardo Calvo.

For Chili. — Their Excellencies Alberto Blest Gana, Emilio Bello Codecido, Joaquin Walker Martinez, Augusto Matte.

For the Dominican Republic. — Their Excellencies Federico Henriquez y Carvajal, Luis Felipe Carbo, Quintin Gutierrez.

For Ecuador. — His Excellency Luis Felipe Carbo.

For El Salvador. — Their Excellencies Francisco A. Reyes, Baltasar Estupinián.

For the United States of America. — Their Excellencies Henry G. Davis, William I. Buchanan, Charles M. Pepper, Volney W. Foster, John Barrett.

For Guatemala. — Their Excellencies Antonio Lazo Arriaga, Colonel Francisco Orla.

For Hayti. — His Excellency J. N. Léger.

For Honduras. — Their Excellencies José Leonard, Fausto Dávila.

For Mexico. — Their Excellencies Genaro Raigosa, Joaquín D. Casasús, José López Portillo y Rojas, Emilio Pardo, jr., Pablo Macedo, Alfredo Chavero, Francisco L. de la Barra, Manuel Sánchez Mármol, Rosendo Pineda.

Pour la Bolivie. — Son Excellence Fernando E. Guachalla.

Pour la Colombie. — Son Excellence Carlos Martínez Silva, Son Excellence Rafael Reyes.

Pour Costa Rica. — Son Excellence Joaquín Bernardo Calvo.

Pour le Chili. — Son Excellence Alberto Blest Gana, Son Excellence Emilio Bello Codecido, Son Excellence Joaquín Walker Martínez, Son Excellence Augusto Matte.

Pour la République Dominicaine. — Son Excellence Federico Henríquez y Carvajal, Son Excellence Luis Felipe Carbo, Son Excellence Quintín Gutiérrez.

Pour l'Equateur. — Son Excellence Luis Felipe Carbo.

Pour le Salvador. — Son Excellence Francisco A. Reyes, Son Excellence Baltasar Estupinian.

Pour les Etats-Unis d'Amérique. — Son Excellence Henry G. Davis, Son Excellence William I. Buchanan, Son Excellence Charles M. Pepper, Son Excellence Volney W. Foster, Son Excellence John Barrett.

Pour Guatemala. — Son Excellence Antonio Lazo Arriaga, Son Excellence Francisco Orla.

Pour Haïti. — Son Excellence J. N. Léger.

Pour Honduras. — Son Excellence José Leonard, Son Excellence Fausto Dávila.

Pour les Etats-Unis Mexicains — Son Excellence Genaro Raigosa, Son Exellence Joaquín D. Casasús, Son Excellence Pablo Macedo, Son Excellence Emilio Pardo (jr.), Son Excellence Alfredo Chavero, Son Excellence José López Portillo y Rojas, Son Excellence Francisco L. de la Barra, Son Excellence Manuel Sánchez

For Nicaragua. — His Excellency Luis F. Corea, His Excellency Fausto Davila.

For Paraguay. — His Excellency Cecilio Baez.

For Peru. — Their Excellencies Isaac Alzamora, Alberto Elmore, Manuel Alvarez Calderón.

For Uruguay. — His Excellency Juan Cuestas.

Who, after having communicated to each other their respective full powers and found them to be in due and proper form, excepting those presented by the representatives of Their Excellencies the Presidents of the United States of America, Nicaragua and Paraguay, who act „ad referendum," have agreed, to celebrate a Treaty to submit to the decision of arbitrators Pecuniary Claims for damages that have not been settled by diplomatic channel, in the following terms:

Art. 1. The High Contracting Parties agree to submit to arbitration all claims for pecuniary loss or damage which may be presented by their respective citizens, and which cannot be amicably adjusted through diplomatic channels and when said claims are of sufficient importance to warrant the expenses of arbitration.

Art. 2. By virtue of the faculty recognized by Article 26 of the Convention of The Hague for the pacific settlement of international disputes, the High Contracting Parties agree to submit to the decision of the permanent Court of Arbitration establish-

Mármol, Son Excellence Rosendo Pineda.

Pour le Nicaragua. — Son Excellence Luis F. Corea, Son Excellence Fausto Dávila.

Pour le Paraguay. — Son Excellence Cecilio Baez.

Pour le Pérou. — Son Excellence Isaac Alzamora, Son Excellence Alberto Elmore, Son Excellence Manuel Alvarez Calderón.

Pour l' Uruguay. — Son Excellence Juan Cuestas.

Lesquels, après s'être communiqué leurs pleins pouvoirs et les avoir trouvés en bonne et due forme, à l'exception de ceux exhibés par les représentants de Leurs Excellences le Président des Etats-Unis d'Amérique, celui du Nicaragua et celui du Paraguay, qui agissent ad referendum, ont convenu de conclure un Traité pour soumettre à la décision des arbitres les réclamations de dommages pécuniaires, dans les termes suivants.

Art. 1er. Les Hautes Parties Contractantes s'obligent à soumettre à l'arbitrage, toutes les réclamations pour dommages et pertes pécuniaires, qui seraient présentées par leurs nationaux respectifs et qui ne pourraient être réglées à l'amiable, par la voie diplomatique pourvu que les dites réclamations soient suffisamment importantes pour justifier les frais de l'arbitrage.

Art. 2e En vertu de la faculté que reconnait l'article 26 de la Convention de la Haye, pour le règlement pacifique des conflits internationaux, les Hautes Parties Contractantes conviennent de soumettre à la décision de la Cour Permanente d'Arbitrage

ed by said Convention, all controversies which are the subject matter of the present Treaty, unless both Parties should prefer that a special jurisdiction be organized, according to Article 21 of the Convention referred to.

If a case is submitted to the Permanent Court of The Hague, the High Contracting Parties accept the provisions of the said Convention, in so far as they relate to the organization of the Arbitral Tribunal, and with regard to the procedure to be followed, and to the obligation to comply with the sentence.

Art. 3. The present Treaty shall not be obligatory except upon those States which have subscribed to the Convention for the pacific settlement of international disputes, signed at The Hague, July 29, 1899, and upon those which ratify the Protocol unanimously adopted by the Republics represented in the Second International Conference of American States, for their adherence to the Conventions signed at The Hague, July 29, 1899.

Art. 4. If, for any cause whatever, the Permanent Court of The Hague should not be opened to one or more of the High Contracting Parties, they obligate themselves to stipulate, in a special Treaty, the rules under which the Tribunal shall be established, as well as its form of procedure, which shall take cognizance of the questions referred to in article 1. of the present Treaty.

Art. 5. This Treaty shall be binding on the States ratifying it, from the date on which five signatory governments have ratified the same, and shall be in force for five years. The ratification of this Treaty by the

que la dite Convention établit, toutes les controverses qui font l'objet du présent traité à moins que les deux Parties ne préfèrent qu'il soit organisé une juridiction spéciale conformément à l'article 21 de la Convention précitée.

Dans le cas où elles s'adresseraient à la Cour Permanente de La Haye, les Hautes Parties Contractantes acceptent les préceptes de la Convention précitée, en ce qui a trait à l'organisation du Tribunal Arbitral à la procédure à suivre et à l'obligation d'exécuter la sentence.

Art. 3e Le présent Traité ne sera obligatoire que pour les Etats qui auraient signé la Convention pour le règlement pacifique des conflits internationaux, signé à La Haye le 29 Juillet 1899 et pour ceux qui ratifieraient le Protocole adopté à l'unanimité par les Républiques représentées à la Seconde Conférence Internationale Américaine, pour l'adhésion aux Conventions de La Haye.

Art. 4e Si pour un motif quelconque la Cour de La Haye ne s'ouvrait pas à l'une ou à plusieurs des Hautes Parties Contractantes, elles s'obligent à consigner dans un traité spécial les règles d'après lesquelles sera établi et fonctionnera le Tribunal qui devra connaître des questions auxquelles se réfère l'article 1° du présent Traité.

Art. 5e Ce Traité sera obligatoire, pour les Etats qui le ratifieraient, à compter de la date où cinq des Gouvernements signataires l'auront ratifié, et il restera en vigueur durant cinq ans. La ratification de ce Traité

signatory States shall be transmitted to the Government of the United States of Mexico, which shall notify the other Governments of the ratifications it may receive.

In testimony whereof the Plenipotentiaries and Delegates also sign the present Treaty, and affix the seal of the Second International American Conference.

Made in the City of Mexico the thirtieth day of January nineteen hundred and two, in three copies, written in Spanish, English and French, respectively, which shall be deposited with the Secretary of Foreign Relations of the Mexican United States, so that certified copies thereof be made, in order to send them through the diplomatic channel to the signatory States.

For the Argentine Republic,
Antonio Bermejo.
Lorenzo Anadon.

For Bolivia,
Fernando E. Guachalla.

For Colombia,
Rafael Reyes.

For Costa Rica,
J. B. Calvo.

For Chili,
Augusto Matte.
Joaq. Walker M.
Emilio Bello C.

For the Dominican Republic,
Fed. Henriquez i Carvajal.

For Ecuador,
L. F. Carbo.

For El Salvador,
Francisco A. Reyes.
Baltasar Estupinian.

par les Etats qui le signeraient sera transmise au Gouvernement des Etats Unis-Mexicains qui communiquera aux autres les notes de ratification qu'il recevrait.

En foi de quoi, les Plénipotentiaires et Délégués signent le présent Traité et y apposent le sceau de la Seconde Conférence Internationale Américaine.

Fait en la ville de Mexico le trente Janvier mil neuf cent deux en trois exemplaires écrits, respectivement, en espagnol, anglais et français, lesquels seront déposés au Ministère des Affaires Etrangères du Gouvernement des Etats Unis-Mexicains afin d'en faire des copies certifiées pour être envoyées par la voie diplomatique à chacun des Etats signataires.

Pour la République Argentine,
Antonio Bermejo.
Lorenzo Anadón.

Pour la Bolivie,
Fernando E. Guachalla.

Pour la Colombie,
Rafael Reyes.

Pour Costa Rica,
J. B. Calvo.

Pour le Chili,
Augusto Matte.
Joaq. Walker M.
Emilio Bello C.

Pour la République Dominicaine,
Fed. Henriquez i Carvajal.

Pour l'Equateur,
L. F. Carbo.

Pour le Salvador,
Francisco A. Reyes.
Baltasar Estupinian.

For the United States of America,

W. I. Buchanan.
Charles M. Pepper.
Volney W. Foster.

For Guatemala,

Francisco Orla.

For Hayti,

J. N. Léger.

For Honduras,

J. Leonard.
F. Dávila.

For Mexico,

G. Raigosa.
Joaquin D. Casasus.
E. Pardo, jr.
José Lopez Portillo y Rojas.
Pablo Magedo.
F. L. de la Barra.
Alfredo Chavero.
M. Sanchez Marmol.
Rosendo Pineda.

For Nicaragua,

F. Dávila.

For Paraguay,

Cecilio Baez.

For Peru,

Manuel Alvarez Calderon.
Alberto Elmore.

For Uruguay,

Juan Cuestas.

Es copia del original que ha sido depositado en la Secretaría de Relaciones Exteriores de los Estados Unidos Mexicanos.

México, Marzo 15 de 1902.

El Ministro de Relaciones Exteriores.

(Seal) *Igno. Mariscal.*

Pour les Etats Unis d'Amérique,

W. I. Buchanan.
Charles M. Pepper.
Volney W. Foster.

Pour le Guatemala,

Francisco Orla.

Pour Haiti,

J. N. Léger.

Pour Honduras,

J. Leonard.
F. Dávila.

Pour le Mexique,

G. Raigosa.
Joaquín D. Casasus.
E. Pardo jr.
José López-Portillo y Rojas.
Pablo Macedo.
F. L. de la Barra.
Alfredo Chavero.
M. Sánchez Mármol.
Rosendo Pineda.

Pour Nicaragua,

F. Dávila.

Pour le Paraguay,

Cecilio Baez.

Pour le Pérou,

Manuel Alvarez Calderón.
Alberto Elmore.

Pour l'Uruguay,

Juan Guestas.

Es copia del original que ha sido despositado en el Ministerio de Relaciones Exteriores de los Estados Unidos Mexicanos.

México, Marzo 15 de 1902.

El Ministro de Relaciones Exteriores.

(Seal) *Igno. Mariscal.*

35.

GRANDE-BRETAGNE, HONDURAS.

Traité de commerce; signé à Guatémala, le 21 janvier 1887*) suivi d'un protocole du 3 février 1900.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and his Excellency the President of the Republic of Honduras, being desirous of maintaining and strengthening friendly relations, and of promoting commercial intercourse between the dominions of Her Britannic Majesty and the territories of the Republic, have resolved to conclude a Treaty of Frienship, Commerce, and Navigation, and have named as their Plenipotentiaries, that is to say:

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, James Plaister Harriss-Gastrell, Esq., Her Britannic Majesty's Minister Resident and Consul-General to the Republic of Honduras;

And his Excellency the President of the Republic of Honduras, his Excellency Dr. Don Jerónimo Zelaya, Envoy Extraordinary and Minister Plenipotentiary;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following Articles:

Art. I. The High Contracting Parties agree that, in all matters relating to commerce and navigation, any privilege, favour, or immunity whatever which either Contracting Party has actually granted or may hereafter grant to the subjects or citizens of any other State shall be extended immediately and unconditionally to the subjects or citizens of the other Contracting Party, it being their intention that the trade and navigation of each country shall be placed in all respects by the other on the footing of the most favoured nation.

II. The produce and manufactures of, as well all goods coming from, the dominions and possessions of Her Britannic Majesty, which are imported into Honduras, and the produce and manufactures of, as well as all goods coming from, Honduras, which are imported into the dominions and possessions of Her Britannic Majesty, whether intended for consumption, warehousing, re-exportation, or transit, shall be treated in the same manner as, and, in particular, shall be subjected to no higher or other duties, whether general, municipal, or local, than the produce, manufactures, and goods of any third country the most favoured in this respect. No other or higher

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*) Les ratifications ont été échangées à Guatémala, le 3 février 1900.

duties shall be levied in Honduras on the exportation of any goods to the dominions and possessions of Her Britannic Majesty, or in the dominions and possessions of Her Britannic Majesty on the exportation of any goods to Honduras, than may be levied on the exportation of the like goods to any third country the most favoured in this respect.

Neither of the Contracting Parties shall establish a prohibition of importation, exportation, or transit against the other which shall not, under like circumstances, be applicable to any third country the most favoured in this respect.

In like manner, in all that relates to local dues, Customs formalities, brokerage, patterns, or samples introduced by commercial travellers, and all other matters connected with trade, British subjects in Honduras, and Honduranian citizens in the dominions and possessions of Her Britannic Majesty, shall enjoy most-favoured-nation treatment.

In the event of any changes being made in Honduranian laws, Customs tariff, or regulations, sufficient notice shall be given in order to enable British subjects to make the necessary arrangements for meeting them.

III. British ships and their cargoes shall, in Honduras, and Honduranian vessels and their cargoes shall, in the dominions and possessions of Her Britannic Majesty. from whatever place arriving, and whatever may be the place of origin or destination of their cargoes, be treated in every respect as national ships and their cargoes.

The preceding stipulation applies to local treatment, dues, and charges in the ports, basins, docks, roadsteads, harbours, and rivers of the two countries, pilotage, and generally to all matters connected with navigation.

Every favour or exemption in these respects, or any other privilege in matters of navigation which either of the Coutracting Parties shall grant to a third Power, shall be extended .immediately and unconditionally to the other Party.

All vessels which, according to British law, are to be deemed British vessels, and all vessels which, according to the law of Honduras, are to be deemed Honduranian vessels, shall, for the purpose of this Treaty, be respectively deemed British or Honduranian vessels.

IV. The subjects or citizens of each of the Contracting Parties shall be permitted to reside permanently or temporarily in the dominions or possessions of the other, and to occupy and hire houses and warehouses for purposes of commerce, whether wholesale or retail. They shall also be at full liberty to exercise civil rights, and therefore to acquire, possess, and dispose of every description of property movable and immovable. They may acquire and transmit the same to others, whether by purchase, sale, donation, exchange, marriage, testament, succession ab intestaton, ad in any other manner, under the same conditions, as natives of the country. Their heirs and legal representatives may succeed to and take possession of it, either in person or by procurators, in the same manner and in the same legal forms as natives of the country.

In none of these respects shall they pay upon the value of such property any other or higher impost, duty, or charge than is payable by natives of the country. In every case the subjects or citizens of the Contracting Parties shall be permitted to export their property, or the proceeds thereof if sold, freely and without being subjected on such exportation to pay any duty different from that to which natives of the country are liable under similar circumstances.

V. The dwellings, manufactories, warehouses, and shops of the subjects or citizens of each of the Contracting Parties in the dominions and possessions of the other, and all premises appertaining thereto destined for purposes of residence or commerce, shall be respected. Except under the conditions and with the forms prescribed by the laws for natives of the country, such dwellings and premises shall be exempt from search or domiciliary visits, and books, papers, or accounts shall be exempt from examination or inspection.

The subjects or citizens of each of the two Contracting Parties in the dominions and possessions of the other shall have free access to the Courts of Justice for the prosecution and defence of their rights, without other conditions, restrictions, or taxes beyond those imposed on natives of the country, and shall, like them, be at liberty to employ, in all causes, their advocates, attorneys, or agents from among the persons admitted to the exercise of those professions according to the laws of the country.

VI. The subjects or citizens of each of the Contracting Parties in the dominions and possessions of the other shall be exempted from billeting and from all compulsory military service whatever, whether in the army, navy, or national guard or militia. They shall likewise be exempted from all contributions, whether pecuniary or in kind, imposed as a compensation for billeting and for personal service, and, finally, from forced loans and military exactions or requisitions of any kind.

VII. The subjects or citizens of either of the two Contracting Parties residing in the dominions and possessions of the other shall enjoy, in regard to their houses, persons, and properties, the protection of the Government in as full and ample a manner as native subjects or citizens.

In like manner the subjects or citizens of each Contracting Party shall enjoy in the dominons and possessions of the other full liberty of conscience, and shall not be molested on account of their religious belief; and such of those subjects or citizens as may die in the territories of the other Party shall be buried in the public cemeteries, or in places appointed for the purpose, with suitable decorum and respect.

The subjects of Her Britannic Majesty residing within the territories of the Republic of Honduras shall be at liberty to exercise in private and in their own dwellings, or within the dwellings or offices of Her Britannic Majesty's Minister, Consuls, or Vice-Consuls, or in any public edifice set apart for the purpose, their religious rites, services, and worship, and to assemble therein for that purpose without hindrance or molestation.

The same stipulations shall be observed in regard to the citizens of the Republic of Honduras within the territories of Her Britannic Majesty.

VIII. The subjects or citizens of each of the Contracting Parties shall have, in the dominions and possessions of the other, the same rights as natives, or as subjects or citizens of the most favoured nation, in regard to patents for inventions, trade-marks, and designs, and the protection of industrial property, upon fulfilment of the formalities prescribed by law.

IX. Each of the Contracting Parties may appoint Consuls-General, Consuls, Vice-Consuls, Pro-Consuls, and Consular Agents to reside respectively in towns or ports in the dominions and possessions of the other Power. Such Consular officers, however, shall not enter upon their functions until after they shall have been approved and admitted in the usual form by the Government to which they are sent. They shall exercise whatever functions, and enjoy whatever privileges, exemptions, and immunities are, or may hereafter be, granted there to Consular officers of the most favoured nation.

X. In the event of any subject or citizen of either of the two Contracting Parties dying without will or testament, in the dominions and possessions of the other Contracting Party, the Consul-General, Consul, or Vice-Consul of the nation to which the deceased may belong, or, in his absence, the representative of such Consular officer may, so far as the laws of each country will permit, take charge of the property which the deceased shall have left, for the benefit of his legal representatives, until an executor or administrator be named.

XI. The Consuls-General, Consuls, Vice-Consuls, and Consular Agents of each of the Contracting Parties residing in the dominions and possessions of the other shall receive from the local authorities such assistance as can by law be given to them for the recovery of deserters from the vessels of their respective countries.

XII. Any ship of war or merchant-vessel of either of the Contracting Parties which may be compelled by stress of weather, or by accident, to take shelter in a port of the other, shall be at liberty to refit therein, to procure all necessary stores, and to continue their voyage, without paying any dues other than such as would be payable in a similar case by a national vessel. In case, however, the master of a merchant-vessel should be under the necessity of disposing of a part of his merchandize in order to defray his expenses, he shall be bound to conform to the regulations and tariffs of the place to which he may have come.

If any ship of war or merchant-vessel of one of the Contracting Parties should run aground or be wrecked within the territory of the other, such ship or vessel, and all parts thereof, and all furniture and appurtenances belonging thereunto, and all goods and merchandize saved therefrom, including any which may have been cast out of the ship, or the proceeds thereof if sold, as well as all papers found on board such stranded or wrecked ship or vessel, shall be given up to the owners or their agents when claimed by them. If there are no such owners or

agents on the spot, then the same shall be delivered to the British or Honduranian Consul-General, Consul, Vice-Consul, or Consular Agent in whose district the wreck or stranding may have taken place, upon being claimed by him within the period fixed by the laws of the country; and such Consuls, owners, or agents shall pay only the expenses incurred in the preservation of the property, together with the salvage or other expenses which would have been payable in the like case of a wreck of a national vessel.

The goods and merchandize saved from the wreck shall be exempt from all duties of Customs, unless cleared for consumption, in which case they shall pay the same rate of duty as if they had been imported in a national vessel.

In the case either of a vessel being driven in by stress of weather, run aground, or wrecked, the respective Consuls-General, Consuls, Vice-Consuls, and Consular Agents shall, if the owner or master or other agent of the owner is not present, or is present and requires it, be authorized to interpose in order to afford the necessary assistance to their fellow-countrymen.

XIII. For the better security of commerce between the subjects of Her Britannic Majesty and the citizens of the Republic of Honduras, it is agreed that if at any time any interruption of friendly intercourse, or any rupture, should unfortunately take place between the two Contracting Parties, the subjects or citizens of either of the said Contracting Parties who may be residing in the dominions or territories of the other, or who may be established there, in the exercise of any trade or special employment shall have the privilege of remaining aud continuing such trade or employment, without any manner of interruption, in full enjoyment of their liberty and property, so long as they behave peacefully and commit no offence against the laws; and their goods, property, and effects, of whatever description they may be, whether in their own custody or intrusted to individuals or to the State, shall not be liable to seizure or sequestration, or to any other charges or demands than those which may be made upon the like goods, property, and effects belonging to native subjects or citizens. Should they, however, prefer to leave the country, they shall be allowed to make arrangements for the safe keeping of their goods, property, and effects, or to dispose of them, and to liquidate their accounts; and a safe conduct shall be given them to embark at the ports which they shall themselves select.

XIV. The stipulations of the present Treaty shall be applicable to all the Colonies and foreign possessions of Her Britannic Majesty, so far as the laws permit, excepting to those hereinafter named, that is to say, except to

India,
The Dominion of Canada,
Newfoundland,
New South Wales,
Victoria,
South Australia,
Western Australia,
Queensland,
Tasmania,
New Zealand,
The Cape,
Natal.

Provided always that the stipulations of the present Treaty shall be made applicable to any of the above-named Colonies or foreign possessions on whose behalf notice to that effect shall have been given by Her Majesty's Representative in the Republic of Honduras to the Honduranian Minister for Foreign Affairs within two years from the date of the exchange of the ratifications of the present Treaty.

The Treaty shall apply in the case of such Colonies or foreign possessions from the date when this notice is given to the Honduranian Minister for Foreign Affairs.

XV. Any controversies which may arise respecting the interpretation or the execution of the present Treaty, or the consequences of any violation thereof, shall be submitted, when the means of settling them directly by amicable agreement are exhausted, to the decision of Commissions of Arbitration, and the result of such arbitration shall be binding upon both Governments.

The members of such Commissions shall be selected by the two Governments by common consent; failing which each of the Parties shall nominate an Arbitrator, or an eqnal number of Arbitrators, and the Arbitrators thus appointed shall select an Umpire.

The procedure of the arbitration shall in each case be determined by the Contracting Parties; failing which the Commission of Arbitration shall be itself entitled to determine it beforehand.

XVI. The present Treaty shall continue in force during ten years, counted from the day of the exchange of the ratifications; and in case neither of the two Contracting Parties shall have given notice twelve months before the expiration of the said period of ten years of their intention of terminating the present Treaty, it shall remain in force until the expiration of one year from the day on which either of the Contracting Parties shall have given such notice.

XVII. The present Treaty shall be ratified by Her Majesty the Queen of Great Britain and Ireland and by his Excellency the President of the Republic of Honduras, and the ratifications shall be exchanged at Tegucigalpa or Guatemala as soon as possible.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seal of their arms.

Done at Guatemala, the 21st day of January 1887.

(L. S.) *J. P. H. Gastrell.*
(L. S.) *Jerónimo Zelaya.*

Protocol.

The undersigned Plenipotentiaries of the High Contracting Parties, in proceeding to the signature this day of the Treaty of Friendship, Commerce, and Navigation, between the United Kingdom of Great Britain and Ireland and the Republic of Honduras, do hereby declare that by the words

„a port“ in Article (XII paragraph), as regards vessels in distress, is intended „a port or roadstead of any kind, whether or not it be a port of entry.“ It is likewise understood between the undersigned Plenipotentiaries that British subjects, in like manner as Honduranian citizens, shall pay the same municipal taxes, such as the tax on places of business in Honduras.

Done in duplicate at Guatemala, this 21st day of January 1887.

(L. S.) *J. P. H. Gastreil.*
(L. S.) *Jerónimo Zelaya.*

Protocol.

The undersigned Plenipotentiaries of the High Contracting Parties to the Treaty of Friendship, Commerce, and Navigation signed between the United Kingdom of Great Britain and Ireland and the Republic of Honduras on the 21st day of January, 1887, being duly authorized thereto, have agreed as follows:

1. The stipulations of the said Treaty shall not be applicable to any of the Colonies or foreign possessions of Her Britannic Majesty, unless notice to that effect shall have been given on behalf of any such Colony or foreign possession by Her Britannic Majesty's Representative accredited to the Republic of Honduras to the Honduranian Minister for Foreign Affairs within one year from the date of the exchange ratifications of the said Treaty.

2. Her Majesty's Government may in the same manner give notice of accession on behalf of any British Protectorate or sphere of influence, or on behalf of the Island of Cyprus, in virtue of the Convention of the 4th June, 1878, between Great Britain and Turkey.

3. Her Majesty's Government shall also have the right to separately terminate the Treaty at any time on giving twelve month's notice to that effect on behalf of any British Colony, foreign possession, or dependency which may have acceded thereto.

4. It is understood that in all cases in which the provisions of the said Treaty accord the treatment of the most favoured nation, that term shall not be held to include the Central American Republics.

5. The stipulations of the said Treaty will be applicable to India, including the territories of any native Prince or Chief in India under the suzerainty of the British Government, subject to the following reservations:

(1.) The Government of India reserve the discretionary power to prevent any foreigner from residing or sojouring in, or travelling through, India, as above defined, without their consent;

(2.) In regard to the native States of India, the rights of citizens of the Republic of Honduras, under Articles I and IV of the said Treaty are subject to the same limitations as those which are, or may be, in force as regards the European British subjects;

(3.) The right to appoint Consuls under Article IX of the said Treaty shall, in India, be restricted to the seaport towns of the provinces under the direct administration of the Government of India.

Done in duplicate, at Guatemala, this 3rd day of February, in the yer of our Lord 1900.

(L. S.) *J. Padilla.*
(L. S.) *G. Jenner.*

36.

JAPON.

Loi destinée à encourager la navigation; du 1er octobre 1896.

Journal Officiel du Japon, du 24 mars 1896.

(Translation.)

Art. 1. A subsidy for the encouragement of navigation will be granted, in accordance with the provisions of this Law, to Japanese subjects, as well as to mercantile corporations having as their members or shareholders none but Japanese subjects, who make it their business to transport goods and passengers between ports in the Empire and foreign countries, or between the different ports in foreign countries be means of ships exclusively owned by themselves and registered as Imperial Japanese ships.

2. According to this Law, the vessels eligible to receive this subsidy are limited to ships built of iron and steel which have a tonnage of over 1,000 tons, and show a maximum speed of over 10 nautical miles an hour, and which come up to the standard prescribed by the regulations fixed by the Minister of Communications for the building of ships.

3. Owners of ships for which a subsidy is desired must first obtain the official sanction of the Minister of Communications in respect of such ships.

4. The following vessels are not eligible for the subsidy:

(1.) Ships built in foreign countries and registered as Japanese ships after the date when this Law goes into operation, if at the time of registration a period of five years shall have elapsed from the time when such ships were built;

(2.) Ships which have been built for fifteen years;

(3.) Ships employed in navigation in accordance with orders from the Imperial Government.

5. To ships of a gross tonnage of 1,000 tons having maximum speed of 10 knots an hour, a subsidy will be given at the rate of 25 sen per ton on the gross tonnage for every 1,000 knots, and for every additional 500 tons an increase of 10 per cent. will be allowed, and for each additional knot an hour of maximum speed the grant will be increased by 20 per

cent. However, for vessels over 6,500 tons gross tonnage, having a maximum speed of 18 knots an hour, the subsidy will be reckoned at the rate of 6,000 tons gross and 17 knots of maximum speed per hour.

The subsidy will be issued in full in the case of ships which have been built for less than five years; in the case of ships which have been built for more than five years, a deduction of 5 per cent. per annum will be made.

In calculating the subsidy, parts of a ton and parts of a nautical mile shall not taken into consideration.

6. The number of nautical miles travelled shall be calculated to be the shortest route between ports.

As regards vessels stopping at out-ports in Japan while on a voyage to foreign countries, the last port of call at home shall be considered the starting point; and as regards vessels which call at any of the ports in the Empire on their arrival from abroad, the first port of call shall be taken as the terminating point of the voyage; and the number of knots travelled shall be reckoned accordingly.

In order to prove the number of nautical miles travelled, a certificate from the Government office at the port of call will be required.

7. Vessels on whose behalf the Minister of Communications shall issue an order for the payment of the grant for which they are entitled, and which have received the official sanction mentioned in Article 3, shall be available for the use of the public service.

Owners of vessels dissatisfied with the amount bestowed upon them have the right to file a petition in a Court of Law within three months from the day on which they received their notice. Such appeal to law does not prevent their being made use of.

8. The owners of ships which have received the official sanction mentioned in Article 3 shall, in compliance with orders from the Minister of Communications within the limits specified below, take on board such ships students of navigation at their expense, and furnish them with such treatment as the said Minister may direct, that is to say;

Vessels having a gross tonnage of over 1,000 tons and under 2,500 tons shall take two students; those which have a gross tonnage of over 2,500 tons and under 4,000 tons shall take three students; and those over 4,000 tons four students.

9. The owners of vessels which have received the official sanction mentioned in Article 3 shall not employ foreigners in their head or branch offices, nor on board their ships in any capacity, unless they receive permission from the Minister of Communications. However, in case of a vacancy occurring on board ship in foreign countries from death or any other unavoidable cause, it shall be permissible to fill the place so vacated on the spot, with the public sanction of the Government official there. Under such circumstances, the owners and master of the vessels in question must at once apply for sanction from the Minister of Communications.

10. The owners of vessels for which the official sanction set forth in Article 3 has been obtained must, when they proceed on a voyage after receiving a subsidy, in obedience to the instructions of the Minister of Communications, allow post-office officials to travel on board free of charge, and convey, free of charge, mail matter and parcels post matter, as well as everything necessary for both mail and parcels post service.

11. Owners of vessels who have received the official sanction mentioned in Article 3, and their heirs, are not allowed, while such vessels are making a voyage after getting the subsidy, and within three years from the day on which they finish the said voyage, to sell, charter, exchange, make a present of, hypothecate, or mortgage such vessels to foreigners. However, such vessels as have already refunded the subsidy money received by them, or may be unable to proceed to sea by reason of the act of God, or any other compelling forces which they are unable to resist, are exempted from the provisions of this Article, provided that they secure the official sanction of the Minister of Communications.

12. The Minister of Communications has power, under this Law, to issue direct orders, upon points relating to the business of the owners of ships, to their agents or masters.

13. Persons who obtain a subsidy under false pretences, and persons who violate the provisions of Article 11, are liable to imprisonment with hard labour, the maximum term of imprisonment being five years, the minimum one year, and, in addition, to a fine of from 200 yen (200 dollars) to 1,000 yen (1,000 dollars).

Persons who attempt to commit the above offences, bul do not succeed, shall be punishable under the Criminal Law, which provides for the punishment of persons who attempt to commit offences.

14. In accordance with this Law, persons who disobey orders emanating from the Minister of Communications, and persons who violate the provisions of Article 9, shall be punished by a fine of from 20 yen (20 dollars) to 500 yen (500 dollars).

15. The provisions of the Criminal Law relating to the concurrence of several offences committed by the same person shall not be made use of in the case of persons committing offences in contravention of this Law.

16. Persons who receive a subsidy under false pretences shall be made to refund the sums they have thus obtained, and offenders against the provisions of Article 11 shall be made to pay back the subsidy money they have already received.

17. Should owners of vessels violate the provisions of this Law, the Minister of Communications shall have power to stop the issue of any subsidy, and this will also be the case when the agent or master commits any offence under the circumstances enumerated in Article 12.

18. The above penal clauses apply, in the case of Companies, to responsible members and agents who commit any of the acts mentioned in any of these clauses.

19. This Law shall go into force on the 1st day of October, 1896 (1st day of the 10th month of the 29th year of Meiji).

37.

CONGO.

Décret du Roi des Belges sur les Patentes à délivrer aux agents de commerce, etc.; donné à Bruxelles, le 21 novembre 1896.

Léopold II, Roi des Belges, Souverain de l'État Indépendant du Congo, à tous présents et à venir, salut:

Revu notre Décret du 28 Mars, 1896;

Vu l'Ordonnance édictée le 29 Août dernier par notre Gouverneur-Général au Congo:

Sur la proposition de notre Secrétaire d'État;

Nous avons décrété et décrétons:

Art. 1er. L'Ordonnance susvisée du 29 août 1896 est approuvée dans les termes ci-dessous:

„Article 1er. Tout particulier, non astreint au payement d'impositions directes et personnelles et opérant sur le territoire de l'État en qualité d'agent de commerce, commis-voyageur, linguister, colporteur, &c., est soumis à une taxe annuelle, fixée á 10 fr., à moins que l'impôt ne soit déjà payé, de son chef, à titre d'ouvrier ou de domestique, par celui qui l'emploie, conformément au Décret du 16 juillet 1890 sur les impositions directes et personnelles.

Art. 2. Il sera délivré, en acquit de la taxe, une patente spéciale, indiquant, outre la durée de sa validité, les noms, prénoms, qualités, profession, et signalement du porteur, laquelle devra être produite par lui à toute réquisition de l'autorité.

Les individus opérant, en l'une des qualités reprises à l'Article 1er, pour le compte d'un tiers imposé, devront être munis par ceux qui les emploient d'une pièce d'identité contenant les mêmes mentions.

Art. 3. La patente ou la pièce d'identité prescrite par l'Article 2 devra être présentée aux postes-frontière, à l'entrée et à la sortie du territoire, et visée par les agents à ce délégués.

Il sera perçu de ce chef, au profit du Trésor, un droit de chancellerie de 5 fr. par visa.

Art. 4. Toute infraction à l'une des dispositions de la présente Ordonnance sera punie d'une amende de 50 fr., à 200 fr., et d'une servitude pénale de sept jours au maximum ou d'une de ces peines seulement.

Art. 5. La patente pourra être refusée, par décision du Gouverneur-Général, à tout individu qui aura été condamné du chef d'atteintes à la liberté individuelle d'indigènes, d'usurpation de fonctions publiques ou

d'atteintes à la sûreté de l'Etat, ou elle pourra ne lui être accordée que sous condition d'en faire usage dans une région déterminée ou en dehors des localités fixées par le Gouverneur-Général.

2. Notre Secrétaire d'Etat est chargé de l'exécution du présent Décret, qui entre en vigueur ce jour.

Donné à Bruxelles, le 21 novembre 1896.

Léopold.

Par le Roi-Souverain:
Edm. van Eetvelde, Secrétaire d'Etat.

38.

ESPAGNE, JAPON.

Traité de Commerce; signé à Madrid, le 2 janvier 1897.*)

His Majesty the Emperor of Japan and His Majesty the King of Spain, and in his Royal name Her Majesty the Queen-Regent of the Realm, being equally desirous of maintaining the relations of good understanding which happily exist between them, by extending and increasing the intercourse between their respective States, and being convinced that this object cannot be better accomplished than by revising the Treaty of Friendship, Commerce, and Navigation hitherto existing between the two countries, have resolved to complete such a revision based upon principles of equity and mutual benefit, and for that purpose have named as their Plenipotentiaries, that is to say:

His Majesty the Emperor of Japan, Shinichiro Kurino, Shoshii, second class of the Imperial Order of the Rising Sun, &c., his Envoy Extraordinary and Minister Plenipotentiary at the Court of His Majesty the King of Italy; and

His Majesty the King of Spain and in his Royal name Her Majesty the Queen-Regent of the Realm, Don Cárlos O'Donell y Abreu, Duke of Tetuan, Marquis of Altamira, Count of Lucena, Grandee of Spain, Senator of the Realm, Brigadier-General, His Most Catholic Majesty's Chamberlain, decorated with the Collar of the Royal and Distinguished Order of Charles III, Knight Grand Cross of the Military Order of St. Hermenegild, decorated with the Collar of the Order of the Tower and Sword of Portugal, Knight Grand Cross of the Orders of St. Stephen of Hungary, of St. Maurice and St. Lazarus of Italy, of Leopold of Belgium, of the Osmanieh, &c., his Minister of State;

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*) Les ratifications ont été échangées à Tokio, le 9 septembre 1897.

Who, having communicated to each other their full powers, found to be in good and due form, have agreed upon and concluded the following Articles:

Art. I. The subjects of each of the two High Contracting Parties shall have full liberty to enter, travel, or reside in any part of the territories of the other Contracting Party, and shall enjoy full and perfect protection for their persons and property.

They shall have free and easy access to the Courts of Justice in pursuit and defence of their rights; they shall be at liberty equally with native subjects to choose and employ lawyers, advocates and representatives to pursue and defend their rights before such Courts, and in all other matters connected with the administration of justice they shall enjoy all the rights and privileges enjoyed by native subjects.

In whatever relates to rights of residence and travel; to the possession of goods and effects of any kind; to the succession to personal estate by will or otherwise, and the disposal of property of any sort in any manner whatsoever, which they may lawfully acquire, the subjects of each Contracting Party shall enjoy in the territories of the other the same privileges, liberties and rights, and shall be subject to no higher imposts or charges in this respect than the subjects or citizens of the most favoured nation. The subjects of each of the High Contracting Parties shall enjoy in the territories of the other the right to exercise their worship, subject to the laws, ordinances, and regulations of the respective countries, and also the right of burying their respective countrymen under the same condition, according to their religious customs, in such suitable and convenient places as may be established and maintained for that purpose.

They shall not be compelled under any pretext whatsoever to pay any charges or taxes other or higher than those that are, or may be paid by native subjects, or subjects and citizens of the most favoured nation.

II. The subjects of either of the Contracting Parties residing in the territories of the other shall be exempted from all compulsory military service whatsoever, whether in the army, navy, national guard or militia; from all contributions imposed in lieu of personal service; and from all forced loans or military exactions or contributions.

III. There shall be reciprocal freedom of commerce and navigation between the territories of the two High Contracting Parties.

The subjects of each of the High Contracting Parties may trade in any part of the territories of the other by wholesale or retail in all kinds of produce, manufactures and merchandize of lawful commerce, either in person or by agents, singly or in partnership with foreigners or native subjects; and they may there own or hire and occuppy the houses, manufactories, warehouses, shops, and premises, which may be necessary for them, and lease land for residential and commercial purposes, conforming themselves to the laws, police, and customs regulations of the country like native subjects.

They shall have liberty freely to come with their ships and cargoes to all places, ports and rivers in the territories of the other, which are,

or may be, opened to foreign commerce, and shall enjoy, respectively, the same treatment in matters of commerce and navigation as native subjects, or subjects or citizens of the most favoured nation without having to pay taxes, imposts or duties, of whatever nature or under whatever denomination, levied in the name, or for the profit, of the Government, public functionaries, private individuals, corporations or establishments of any kind, other or greater than those paid by native subjects, or subjects or citizens of the most favoured nation.

It is, however, understood that the provisions of the present and the two preceding Articles in no way annul the laws, ordinances, and special regulations respecting commerce, police, and public security in force in the respective countries applying to foreigners in general.

IV. The dwellings, manufactories, warehouses and shops of the subjects of each of the High Contracting Parties in the territory of the other and all premises appertaining thereto destined for purposes of residence or commerce, shall be respected.

It shall not be allowable to proceed to make a search of, or a domiciliary visit to, such dwellings and premises, or to examine or inspect books, papers or accounts, except under the conditions and with the forms prescribed by the laws, ordinances, and regulations for subjects of the country.

V. The subjects of each of the High Contracting Parties shall enjoy in the territories of the other exemption from all transit duties, and a perfect equality of treatment with native subjects in all that relates to warehousing, bounties, facilities and drawbacks.

No merchandize of the territories of either of the Contracting Parties imported into the territory of the other shall be liable to pay higher excise or octroi dues, whether national or local, than those imposed upon the similar merchandize of native production.

Import duties on any particular goods or merchandize may be increased in either country in proportion to the burden imposed upon the similar goods or merchandize by the system of internal duties.

VI. All articles which are, or may be, legally imported into the ports of the territories of His Majesty the Emperor of Japan in Japanese vessels may likewise be imported into those ports in Spanish vessels, without being liable to any other or higher duties or charges of whatever denomination than if such articles were imported in Japanese vessels; and, reciprocally, all articles which are, or may be, legally imported into the ports of the territories of His Majesty the King of Spain in Spanish vessels may likewise be imported into those ports in Japanese vessels, without being liable to any other or higher duties or charges of whatever denomination than if such articles were imported in Spanish vessels.

In the same manner, there shall be perfect equality of treatment in regard to exportation, so that the same export duties shall be paid, and the same bounties and drawbacks allowed, in the territories of either of the High Contracting Parties, on the exportation of any article which is,

or may be, legally exported therefrom, whether such exportation shall take place in Japanese or in Spanish vessels, and whatever may be the place of destination, whether a port of either of the Contracting Parties or of any third Power.

VII. No duties of tonnage, harbour, pilotage, lighthouse, quarantine, or other similar or corresponding duties of whatever nature or under whatever denomination, levied in the name, or for the profit, of the Government, public functionaries, private individuals, corporations or establishments of any kind, shall be imposed in the ports of the territories of either country upon the vessels of the other country which shall not equally and under the same conditions be imposed in the like cases on national vessels in general or vessels of the most favoured nation. Such equality of treatment shall apply, reciprocally, to the respective vessels, from whatever port or place they may arrive, and whatever may be their place of destination.

VIII. In all that regards the stationing, loading and unloading of vessels in the ports, basins, docks, roadsteads, harbours or rivers of the territories of the two countries, no privilege shall be granted to national vessels which shall not be equally granted to vessels of the other country; the intention of the High Contracting Parties being that in this respect also the respective vessels shall be treated on the footing of perfect equality.

IX. The coasting trade of both the High Contracting Parties is excepted from the provisions of the present Treaty, and shall be regulated according to the laws, ordinances, and regulations of Japan and Spain, respectively.

It is, however, understood that Japanese subjects in the territories of His Majesty the King of Spain and Spanish subjects in the territories of His Majesty the Emperor of Japan shall enjoy in this respect the rights which are, or may be, granted under such laws, ordinance, and regulations to the subjects or citizens of any other country.

A Japanese vessel laden in a foreign country with cargo destined for two or more ports in the territories of His Majesty the King of Spain, and a Spanish vessel laden in a foreign country with cargo destined for two or more ports in the territories of His Majesty the Emperor of Japan, may discharge a portion of her cargo at one port and continue her voyage to the other port or ports of destination where foreign trade is permitted, for the purpose of landing the remainder of her original cargo there, subject always to the laws and custom-house regulations of the two countries.

The Japanese Government, however, agrees to allow Spanish vessels, for the period of the duration of the present Treaty, to carry cargo between the existing open ports of the Empire, excepting to or from the ports of Osaka, Niigata, and Ebisuminato.

X. Any ship of war or merchant-vessel of either of the High Contracting Parties which may be compelled by stress of weather or by reason of any other distress to take shelter in a port of the other shall be at liberty to refit therein, to procure all necessary supplies, and to put to

sea again, without paying any dues other than such as would be payable by national vessels. In case, however, the master of a merchant-vessel should be under the necessity of disposing of a part of his cargo in order to defray the expenses, he shall be bound to conform to the regulations and tariffs of the place to which he may have come.

If any ship of war or merchant-vessel of one of the Contracting Parties should run aground or be wrecked upon the coasts of the other, the local authorities shall inform the Cousul-General, Consul, Vice-Consul, or Consular Agent of the district of the occurrence, or if there be no such Consular officer they shall inform the Consular officer of the nearest district.

All proceedings relative to the salvage of Japanese vessels wrecked or cast on shore in the territorial waters of His Majesty the King of Spain shall take place in accordance with the laws, ordinances, and regulations of Spain; and, reciprocally, all measures of salvage relative to Spanish vessels wrecked or cast on shore in the territorial waters of His Majesty the Emperor of Japan shall take place in accordance with the laws, ordinances, and regulations of Japan.

Such stranded or shipwrecked vessel, and all parts thereof, and all furnitures and appurtenances belonging thereunto, and all goods and merchandize saved therefrom, including those which may have been cast into the sea, or the proceeds thereof, if sold, as well as all papers found on board such stranded or wrecked ship or vessel, shall be given up to the owners or their agents when claimed by them. If such owners or agents are not on the spot, the same shall be delivered to the respective Consuls-General, Consuls, Vice-Consuls, or Consular Agents, upon being claimed by them within the period fixed by the laws of the country, and such Consular officers, owners or agents shall pay only the expenses incurred in the preservation of the property, together with the salvage or other expenses which would have been payable in the case of a wreck of a national vessel.

The goods and merchandize saved from the wreck shall be exempt from all the duties of the Customs, unless cleared for consumption, in which case they shall pay the ordinary duties.

When a ship or vessel belonging to the subjects of one of the Contracting Parties is stranded or wrecked in the territories of the other, the respective Consuls-General, Consuls, Vice-Consuls, and Consular Agents shall be authorized, in case the owner or master or other agent of the owner is not present, to lend their official assistance in order to afford the necessary assistance to the subjects of the respective States. The same rule shall apply in case the owner, master or other agent is present, but requires such assistance to be given.

XI. All vessels which, according to Japanese law, are to be deemed Japanese vessels, and all vessels which, according to Spanish law, are to be deemed Spanish vessels, shall for the purposes of this Treaty be deemed Japanese and Spanish vessels respectively.

XII. The Consuls-General, Consuls, Vice-Consuls, and Consular Agents of each of the Contracting Parties, residing in the territories of the other, shall receive from the local authorities such assistance as can by law be given to them for the recovery of deserters from the vessels of their respective countries.

It is understood that this stipulation shall not apply to the subjects of the country where the desertion takes place.

XIII. The commercial travellers of either of the High Contracting Parties shall enjoy in the territories of the other the same rights and privileges in respect of patents or permits as are granted, or may hereafter be granted, to commercial travellers of the most favoured nation.

If such commercial travellers shall have paid any customs duties or deposited money on importation of sample goods into either country, they shall be entitled, at the time of re-exportation or re-entry into warehouse, to repayment of such duties paid or money deposited, provided the necessary formalities shall have been complied with in accordance with the customs laws, ordinances, and regulations of the respective countries.

XIV. The High Contracting Parties agree that, in all that concerns commerce and navigation, any privilege, favour, or immunity which either Contracting Party has actually granted, or may hereafter grant, to the Government, ships, subjects or citizens of any other State shall be extended immediately and unconditionally to the Government, ships or subjects of the other Contracting Party; it being their intention that the trade and navigation of each country should be placed, in all respects, by the other on the footing of the most favoured nation.

It is, however, understood that the stipulation of this Article shall not apply to arrangements regarding Customs Tariff that are, or hereafter may be, made respectively with any other countries, nor to the special treatment reserved by Spain to Portugal or to the Spanish-American Republics, provided that such special treatment should only be extended to the said countries.

XV. Each of the High Contracting Parties may appoint Consuls-General, Consuls, Vice-Consuls, and Consular Agents in all the ports, cities and places of the other, except in those where it may not be convenient to recognize such officers.

This exception, however, shall not be made in regard to one of the Contracting Parties without being made likewise in regard to every other Power.

The Consuls-General, Consuls, Vice-Consuls, and Consular Agents may excercise all functions, and shall enjoy all privileges, exemptions, and immunities which are, or may hereafter, be granted to Consular officers of the most favoured nation.

XVI. The subjects of each of the High Contracting Parties shall enjoy in the territories of the other the same protection as native subjects in regard to patents, trade-marks and designs, upon fulfilment of the formalities prescribed by law.

XVII. The High Contracting Parties agree to the following arrangement:

The several foreign Settlements in Japan shall be incorporated with the respective Japanese communes, and shall thenceforth form part of the general municipal system of Japan.

The competent Japanese authorities shall thereupon assume all municipal obligations and duties in respect thereof, and the common funds and property, if any, belonging to such Settlements shall at the same time be transferred to the said Japanese authorities.

When such incorporation takes place the existing leases in perpetuity under which property is now held in the said Settlements shall be confirmed, and no conditions whatsoever other than those contained in such existing leases shall be imposed in respect of such property. It is, however, understood that the Consular authorities mentioned in the same are in all cases to be replaced by the Japanese authorities.

All lands which may previously have been granted by the Japanese Government free of rent for the public purposes of the said Settlements shall, subject to the right of eminent domain, be permanently reserved free of all taxes and charges for the public purposes for which they were originally set apart.

XVIII. The stipulations of the present Treaty shall be applicable, as far as the laws permit, to the Spanish provinces and possessions beyond the seas.

XIX. The present Treaty shall, from the date it comes into force, be substituted in place of the Treaty of Friendship, Commerce, and Navigation concluded on the 28th day of the 9th month of the 1st year of Meiji, corresponding to the 12th November, 1868, and the Additional Article of the same date, and all Arrangements and Agreements subsidiary thereto concluded or existing between the High Contracting Parties; and from the same date such Convention, Treaty, Arrangements and Agreements shall cease to be binding, and, in consequence, the jurisdiction then exercised by Spanish Courts in Japan and all the exceptional privileges, exemptions and immunities then enjoyed by Spanish subjects as a part of or appurtenant to such jurisdicton shall absolutely and without notice cease and determine, and thereafter all such jurisdiction shall be assumed and exercised by Japanese Courts.

XX. The present Treaty shall not take effect until the 17th day of 7th month of the 32nd year of Meiji, corresponding to the 17th day of July, 1899. It shall come into force one year after His Imperial Majesty's Government shall have given notice to His Most Catholic Majesty's Government of its wish to have the same brought into operation.

Such notice may be given at any time after the 16th day of the 7th month of the 31st year of Meiji, corresponding to the 16th day of July, 1898. This Treaty shall remain in force for the period of twelve years from the date it goes into operation.

Either High Contracting Party shall have the right, at any time after eleven years shall have elapsed from the date this Treaty takes effect, to

give notice to the other of its intention to terminate the same, and at the expiration of twelve months after such notice is given this Treaty shall wholly cease and determine.

XXI. The present Treaty shall be ratified, and the ratifications thereof shall be exchanged at Tokio as soon as possible.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seal of their arms.

Done at Madrid, in duplicate, this 2nd day of the 1st month of the 30th year of Meiji, corresponding to the 2nd day of January 1897 of the Christian era.

(L. S.) *S. Kurino.*
(L. S.) *El Duque de Tetuan.*

Protocol.

The Government of His Majesty the Emperor of Japan and the Government of His Most Catholic Majesty the King of Spain, deeming it advisable in the interests of both countries to regulate certain special matters of mutual concern, apart from the Treaty of Friendship and General Intercourse signed this day, have, through their respective Plenipotentiaries, agreed upon the following stipulations:

1. The High Contracting Parties agree to conclude hereafter a special Commercial Convention based upon the principle of reciprocity for the adjustment of the import duties to be levied upon the goods and merchandize of either of the two Contracting Parties upon importation into the other.

2. It is agreed by the High Contracting Parties that one month after the exchange of the ratifications of the Treaty signed this day, the Import Tariff now in operation in Japan in respect of goods and merchandize imported into Japan by the subjects of His Most Catholic Majesty the King of Spain shall cease to be binding. From the same date the General Statutory Tariff of Japan, for the time being in force, shall, subject to the provisions of Article XXIII of the Treaty of the 12th November, 1868, at present subsisting between the Contracting Parties, as long as the said Treaty remains in force, be applicable to the goods and merchandize of the territories of Spain and her provinces and possessions beyond the seas, upon importation into Japan.

But nothing contained in this Protocol shall be held to limit or qualify the right of Japanese Government to restrict or to prohibit the importation of adulterated drugs, medicines, food or beverages; indecent or obscene prints, paintings, books, cards, lithographic or other engravings, or any other indecent or obscene articles; articles in violation of patent, trademark, or copyriyght laws of Japan; or any other article which for sanitary reasons or in view of puclic security or morals might offer any danger.

3. The Japanese Government, pending the opening of the country to Spanish subjects, agrees to extend the existing passport system in such a manner as to allow Spanish subjects, on the production of a certificate from the Spanish Representative in Tokio, or from any of His Most

Catholic Majesty's Consuls at the open ports in Japan, to obtain upon application passports available for any part of the country, and for any period not exceeding twelve months, from the Imperial Japanese Foreign Office in Tokio, or from the chief authorities of the Prefecture in which an open port is situated; it being understood that the existing rules and regulations governing Spanish subjects who visit the interior of the Empire are to be maintained.

4. The Japanese Government undertakes, before the cessation of Spanish Consular jurisdiction in Japan, to join the International Conventions for the Protection of Industrial Property and Copyright.

5. It is understood that all cases pending in the Spanish Consular Courts in Japan at the time of the cessation of the latter shall continue to be subject to the same until finally adjudicated.

6. The High Contracting Parties agree to conclude a special Convention for the mutual surrender of fugitive criminals. Until such Convention shall have been concluded each Contracting Party shall extend to the other the same rights and privileges in the matter, as well as in the execution of requisitions concerning civil and criminal cases, as have been granted, or may hereafter be granted, to the most favoured nation.

7. The High Contracting Parties agree to notify to each other all cases in which either shall have granted its nationality to a subject of the other in accordance with the laws of the country. All such cases of naturalization shall be considered null and void, as regards the country to which such naturalized subjects originally belonged, unless the abovementioned condition of notification shall have been previously complied with. Should such naturalized subjects go back to the country of origin without intention of returning to that of naturalization, they shall ipso facto be bound by all the duties and obligations incumbent upon them as the subjects of their native country, and shall be held to have tacitly renounced the acquired nationality.

A residence exceeding one year shall be held as primâ facie evidence of such renunciation.

8. The undersigned Plenipotentiaries have agreed that this Protocol shall be submitted to the High Contracting Parties at the same time as the Treaty of Friendship and General Intercourse signed this day, and that when the said Treaty is ratified the Agreements contained in the Protocol shall also equally be considered as approved without the necessity of a further formal ratification.

It is also agreed that this Protocol shall terminate at the same time the said Treaty ceases to be binding.

In wittness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto their seals.

Done at Madrid, in duplicate, this 2nd day of the 1st month of the 30th year of Meiji, corresponding to the 2nd day of January, 1897, of the Christian era.

(L. S.) *S. Kurino.*
(L. S.) *El Duque de Tetuan*

39.

JAPON, PORTUGAL.

Traité de Commerce et de Navigation; signé à Lisbonne, le 26 janvier 1897.*)

Sa Majesté l'Empereur du Japon et Sa Majesté le Roi de Portugal et des Algarves animés d'un égal désir de maintenir les bons rapports déjà heureusement établis entre eux en étendant et en augmentant les relations entre leurs Etats respectifs, et persuadés que ce but ne saurait être mieux atteint que par la revision des Traités jusqu'ici en vigueur entre les deux pays, ont résolu de procéder à cette revision sur les bases de l'équité et de l'intégrêt mutuels, et ont nommé, à cet effet, pour leurs Plénipotentiaires, savoir:

Sa Majesté l'Empereur du Japon, M. Soné Arasuké, Jushii, troisième classe de l'Ordre Impérial du Trésor Sacré, son Envoyé Extraordinaire et Ministre Plénipotentiaires près la Cour de Sa Majesté Très-Fidèle;

Sa Majesté le Roi de Portugal et des Algarves le Conseiller Luiz Maria do Soveral, Ministre et Secrétaire d'Etat des Affaires Etrangères, Grand Cordon de l'Ordre du Christ, de l'Ordre de Saint-Michel et de Saint-Georges d'Angleterre et de l'Ordre de Ernest Pie de Saxe-Cobourg-Gotha, &c.;

Lesquels, après s'être communiqué leurs pleins pouvoirs, trouvés en bonne et due forme, ont arrêté et conclu les Articles suivants:

Art. I. Les sujets de chacune des deux Hautes Parties Contractantes auront toute liberté d'entrer, de voyager, ou de résider en un lieu quelconque du territoire de l'autre, et y jouiront d'une pleine et entière protection pour leurs personnes et leurs propriétés.

Ils auront un accès libre et facile aux Tribunaux pour la poursuite ou la défense de leurs droits; ils auront, sur le même pied que les sujets du pays, la faculté de choisir et d'employer des avoués, des avocats et des mandataires, afin de pursuivre et de défendre leurs droits devant ces Tribunaux, et, quant aux autres matières qui se rapportent à l'administration de la justice, ils jouiront de tous les droits et privilèges dont jouissent les sujets du pays.

Pour tout ce qui concerne le droit de résidence et de voyage, la possession des biens et effets mobiliers, de quelque espèce que ce soit, la transmission des biens mobiliers par succession testamentaire ou autre, et le droit de disposer, de quelque manière que ce soit, des biens de toutes sortes qu'ils peuvent légalement acquérir, les sujets de chacune des deux Parties

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*) Ratifications échangées à Lisbonne, le 30 août 1897.

Contractantes jouiront, dans le territoire de l'autre, des mêmes privilèges, libertés, et droits, et ne seront soumis, sous ce rapport, à aucuns impôts ou charges plns élevés, que les sujets du pays ou les sujets ou citoyens de la nation la plus favorisée. Les sujets de chacune des Parties Contractantes jouiront, dans le territoire de l'autre, d'une liberté entière de conscience, et pourront, en se conformant aux lois, ordonnances, et règlements, se livrer à l'exercice prié ou public de leur culte; ils jouiront aussi du droit d'inhumer leurs nationaux respectifs, suivant leurs coutumes religieuses, dans des lieux convenables et appropriés qui seront établis et entretenus à cet effet.

Ils ne seront contraints, sous aucun prétexte, à payer des charges ou taxes autres ou plus élevées que celles qui sont ou seront imposées aux sujets du pays ou aux sujets ou citoyens de la nation la plus favorisée.

Les sujets de chacune des Parties Contractantes qui résident dans le territoire de l'autre ne seront astreints à aucun service militaire obligatoire, soit dans l'armée ou la marine, soit dans la garde nationale ou la milice ; ils seront exempts de toutes contributions imposées en lieu et place du service personnel, de tous emprunts forcés et de toutes exactions ou de contributions militaires.

II. Il y aura, entre les territoires des deux Hautes Parties Contractantes, liberté réciproque de commerce et de navigation.

Les sujets de chacune des Parties Contractantes pourront exercer, en quelque lieu que ce soit du territoire de l'autre, le commerce en gros ou en détail de tous produits, objets fabriqués et marchandises de commerce licite, soit en personne, soit par leurs représentants, tant seuls qu'en société avec des étrangers ou des sujets du pays; ils pourront y posséder ou louer, même par bail emphytéotique, et occuper des maisons, des fabriques, des magasins et des boutiques, et louer des terrains et les prendre à bail emphytéotique, à l'effet d'y résider ou d'y exercer leur profession, le tout en se conformant aux règlements de police et de douane du pays, comme les nationaux eux-mêmes.

Ils auront pleine liberté de se rendre avec leurs navires et leurs cargaisons dans tous les lieux, ports et rivières du territoire de l'autre qui sont ou pourront être ouverts au commerce étranger, et ils jouiront respectivement, en matière de commerce et de navigation, du même traitement que les sujets ou citoyens de la nation la plus favorisée, sans avoir à payer aucuns impôts, taxes ou droits, de quelque nature ou dénomination que ce soit, perçus au nom ou au profit du Gouvernement, des fonctionnaires publics, des particuliers, des corporations ou établissements quelconques, autres ou plus élevés que ceux imposés aux sujets ou citoyens de la nation la plus favorisée.

Il est toutefois entendu que les stipulations contenues dans cet Article, ainsi que dans l'Article précédent, ne dérogent en rien aux lois, ordonnances, et règlements spéciaux en matière de commerce, d'agriculture, de mines, de pêche, de police, et de sécurité publique en vigueur dans chacun des deux pay et applicables à tous les étrangers en général.

III. Les habitations, fabriques, magasins, et boutiques des sujets de chacune des Hautes Parties Contractantes dans le territoire de l'autre, ainsi que leurs dépendances, seront respectés.

Il ne sera pas permis de procéder à des perquisitions ou visites domiciliaires dans ces habitations, fabriques, magasins et boutiques, ou bien d'examiner ou d'inspecter les livres, papiers ou comptes, sauf dans les conditions et formes prescrites par les lois, ordonnances et règlements applicables aux sujets du pays.

IV. Il ne sera imposé à l'importation directe dans le territoire de Sa Majesté le Roi de Portugal, de tous articles produits ou fabriqués dans le territoire de Sa Majesté l'Empereur du Japon, énumérés à la Table (A), de quelque endroit qu'ils viennent, et à l'importation directe dans le territoire de Sa Majesté l'Empereur du Japon, de tous articles produits ou fabriqués dans le territoire de Sa Majesté le Roi de Portugal énumérés à la Table (B), de quelque endroit qu'ils viennent, aucuns droits autres ou plus élevés que ceux imposés sur les articles similaires produits ou fabriqués dans tout autre pays étranger.

L'importation directe consiste dans l'embarquement des marchandises dans un port de l'une des Hautes Parties Contractantes et dans leur débarquement, durant le même voyage, dans un port de l'autre Partie Contractante, quelle que soit la nationalité du navire, et bien que celui-ci aborde, en escale ou en relâche, un ou plusieurs ports d'une tierce Puissance. Elle est démontrée par le manifeste et les connaissements. Est assimilée à l'importation directe l'importation sous connaissement direct (through-bill of lading), quand bien même les marchandises spécifiées sur le dit connaissement auraient éte transbordées ou déposées dans les entrepôts d'une tierce Puissance. Dans ce cas il sera exigé le certificat d'origine.

De même, aucune prohibition ne sera maintenue ou imposée sur l'importation dans le territoire de l'une des Parties Contractantes d'un article quelconque produit ou fabriqué dans le territoire de l'autre, de quelque endroit qu'il vienne, à moins que cette prohibition ne soit également appliquée à l'importation des articles similaires produits ou fabriqués dans tout autre pays.

Cette dernière disposition n'est pas applicable aux prohibitions d'articles qui, pour des raisons sanitaires ou en vue de la sécurité ou de la morale publique, pourront offrir quelque danger; elle n'est aussi applicable à d'autres prohibitions, provenant de la nécessité de protéger les droits de propriété commerciale, industrielle, ou littéraire, et de protéger la conservation du bétail et des plantes à l'agriculture.

V. Il ne sera imposé dans le territoire de chacune des Hautes Parties Contractantes, à l'exportation d'un article quelconque à destination du territoire de l'autre, aucuns droits ou charges autres ou plus élevés que ceux qui sont ou seront payables à l'exportation des articles similaires à destination d'un autre pays étranger quel qu'il soit; de même, aucune prohibition ne sera imposée à l'exportation d'aucun article du territoire de l'une des Parties Contractantes à destination du territoire de l'autre,

sans que cette prohibition soit également étendue à l'exportation des articles similaires à destination de tout autre pays.

VI. Les sujets de chacune des Hautes Parties Contractantes seront exempts, dans le territoire de l'autre, de tout droit de transit, et jouiront d'une parfaite égalité de traitement avec les sujets du pays relativement à tout ce qui concerne l'emmagasinage, les primes, les facilités, et les drawbacks.

VII. Tous les articles qui sont ou pourront être légalement importés dans les ports du territoire de Sa Majesté l'Empereur du Japon sur des navires Japonais pourront, de même, être importés dans ces ports sur des navires Portugais; dans ce cas, ces articles n'auront à payer aucuns droits ou charges, de quelque dénomination que ce soit, autres ou plus élevés que ceux imposés sur les mêmes articles importés par des navires japonais. Réciproquement, tous les articles qui sont ou pourront être légalement importés dans les ports du territoire de Sa Majesté le Roi de Portugal sur des navires portugais pourront, de même, être importés dans ces ports sur des navires japonais; dans ce cas, ces articles n'auront à payer aucuns droits ou charges, de quelque dénomination que ce soit, autres ou plus élevés que ceux imposés sur les mêmes articles importés par des navires portugais.

Cette égalité réciproque de traitement sera accordée indistinctement, soit que ces articles viennent directement des pays d'origine, soit qu'ils viennent de tout autre lieu.

De la même manière, il y aura parfaite égalité de traitement relativement à l'exportation; ainsi, les mêmes droits d'exportation seront payés, et les mêmes primes et drawbacks seront accordés, dans les territoires de chacune des Hautes Parties Contractantes, sur l'exportation de tout article qui est ou pourra être légalement exporté, que cette exportation ait lieu sur des navires japonais ou sur des navires portugais et quel que soit le lieu de destination, qu'il soit un des ports de chacune des Parties Contractantes ou un des ports d'une Puissance tierce.

VIII. Aucun droit de tonnage, de port, de pilotage, de phare, de quarantaine ou autres droits similaires ou analogues, de quelque nature ou sous quelque dénomination que se soit, levés au nom ou au profit du Gouvernement, des fonctionnaires publics, des particuliers, des corporations ou des établissements de toutes sortes, qui ne seraient également et sous les mêmes conditions imposés, en pareil cas, sur les navires de la nation la plus favorisée, ne seront imposés dans les ports des territoires de chacun des deux pays, sur les navires de l'autre.

Toutefois cette disposition ne portera pas sur les Traités que le Portugal a conclus avec la République Sud-Africaine, le 11 décembre 1875 et l'Etat Libre d'Orange, le 10 mars 1876 ni sur les stipulations intervenues ou qui pourront intervenir entre le Portugal et le Brésil.

IX. En tout ce qui concerne le placement, le chargement, et le déchargement des navires dans les ports, bassins, docks, rades, havres ou rivières des territoires des deux pays, les navires japonais et les navires

portugais jouiront réciproquement au Portugal et au Japon des privilèges accordés aux navires de la nation la plus favorisée.

X. Le cabotage dans les territoires de l'une et de l'autre des Hautes Parties Contractantes sera régi par les lois, ordonnances, et règlements du Japon et du Portugal respectivement. Il est toutefois entendu que les sujets Japonais dans le territoire de Sa Majesté le Roi de Portugal et les sujets Portugais dans le territoire de Sa Majesté l'Empereur du Japon jouiront, sous ce rapport, des droits qui sont ou pourront être accordés par ces lois, ordonnances et règlement aux sujets ou citoyens de tout autre pays.

Tout navire japonais chargé à l'étranger d'une cargaison destinée à deux ou plusieurs ports du territoire du Portugal, et tout navire portugais chargé à l'étranger d'une cargaison destinée à deux ou plusieurs ports du territoire de Sa Majesté l'Empereur du Japon, pourra décharger une partie de sa cargaison dans un port, et continuer son voyage pour l'autre ou les autres ports de destination où le commerce étranger est autorisé, dans le but d'y décharger le reste de sa cargaison d'origine, en se conformant toujours aux lois et aux règlements de douane des deux pays.

XI. Tout vaisseau de guerre ou navire de commerce de l'une ou de l'autre des Hautes Parties Contractantes qui serait forcé, par un mauvais temps ou par suite de tout autre danger, de s'abriter dans un port de l'autre, aura la liberté de s'y faire réparer, de s'y procurer toutes les provisions nécessaires et de reprendre la mer, sans payer d'autres charges que celles qui seraient payées par les navires nationaux. Dans le cas, cependant, où le capitaine du navire de commerce se trouverait dans le nécessité de vendre une partie de sa cargaison pour payer les frais, il sera obligé de se conformer aux règlements et tarifs du lieu où il aurait relâché.

Si un vaisseau de guerre ou un navire de commerce de l'une des Parties Contractantes a échoué ou naufragé sur les côtes de l'autre, les autorités locales en informeront le Consul-Général, le Consul, le Vice-Consul, ou l'Agent Consulaire du lieu de l'accident, et, s'il n'y existe pas de ces officiers Consulaires, elles en informeront le Consul-Général, le Consul, le Vice-Consul, ou l'Agent Consulaire du district le plus voisin.

Toutes les opérations relatives au sauvetage des navires japonais naufragés ou échoués dans les eaux territoriales de Sa Majesté le Roi de Portugal auront lieu conformément aux lois, ordonnances, et règlements du Portugal, et, réciproquement, toutes les mesures de sauvetage relatives aux navires portugais naufragés ou échoués dans les eaux territoriales de Sa Majesté l'Empereur du Japon auront lieu conformément aux lois, ordonnances, et règlements du Japon.

Tous navires ou vaisseaux ainsi échoués ou naufragés, tous débris et accessoires, toutes fournitures leur appartenant, et tous effets et marchandises sauvés des dits navires ou vaisseaux, y compris ceux qui auraient été jetés à la mer ou les produits des dits objets, s'ils sont vendus, ainsi que tous papiers trouvés à bord de ces navires ou vaisseaux échoués ou naufragés, seront remis aux propriétaires ou à leurs représentants, quand ils les

réclameront. Dans le cas où ces propriétaires ou représentants ne se trouveraient pas sur les lieux, les dits produits ou objets seront remis aux Consuls-Généraux, Consuls, Vice-Consuls, ou Agents Consulaires respectifs, sur leur réclamation, dans le délai fixé par les lois du pays, et ces officiers Consulaires, propriétaires ou représentants payeront seulement les dépenses occasionnées pour la conservation des dits objets, ainsi que les frais de sauvetage ou autres dépenses auxquels seraient soumis, en cas de naufrage, les navires nationaux.

Les effets et marchandises sauvés du naufrage seront exempts de tous droits de douane, à moins qu'il n'entrent à la douane pour la consommation intérieure, auquel cas ils payeront les droits ordinaires.

Dans le cas où un navire appartenant aux sujets de l'une des Parties Contractantes ferait naufrage ou échouerait sur le territoire de l'autre, les Consuls-Généraux, Consuls, Vice-Consuls, ou Agents Consulaires respectifs seront autorisés, en l'absence du propriétaire, capitain ou autre représentant du propriétaire, à prêter leur appui officiel pour procurer toute l'assistance nécessaire aux sujets des États respectifs. Il en sera de même dans le cas où le propriétaire, capitaine ou autre représentant serait présent et demanderait une telle assistance.

XII. Tous les navires qui, conformément aux lois japonaises, sont considérés comme navires Japonais, et tous les navires qui, conformément aux lois portugaises, sont considérés comme navires portugais, seront respectivement considérés comme navires japonais et portugais pour le but de ce Traité.

XIII. Si un marin déserte d'un vaisseau de guerre ou d'un navire de commerce appartenant à l'une ou l'autre des Hautes Parties Contractantes sur le territoire de l'autre, les autorités locales seront tenues de prêter toute l'assistance en leur prouvoir pour l'arrestation et la remise de ce déserteur, sur la demande qui leur sera adressée par le Consul du pays auquel appartient le navire ou vaisseau du déserteur ou par le représentant du dit Consul.

Il est entendu que cette stipulation ne s'appliquera pas aux sujets du pays où la désertion a eu lieu.

XIV. Les Hautes Parties Contractantes conviennent qu'en tout ce qui concerne l'exercice du commerce, la navigation et l'industrie, aucuns privilèges, faveurs, ou immunités que l'une ou l'autre des Parties Contractantes a déjà accordés ou accorderait à l'avenir au Gouvernement ou aux sujets ou citoyens de tout autre État seront étendus immédiatement et sans condition au Gouvernement ou aux sujets de l'autre Partie Contractante, leur intention étant que l'exercice du commerce, la navigation et l'industrie de chaque pays soient placés, à tous égards, par l'autre, sur le pied de la nation la plus favorisée.

Les prescriptions de cet Article et de l'Article IV ne s'appliquent pas aux faveurs ayant le caractère de privilèges que le Portugal a accordées ou accordera à l'Espagne et au Brésil.

XV. Chacune des Hautes Parties Contractantes pourra nommer les Consuls-Généraux, Consuls, Vice-Consuls, Pro-Consuls, et Agents Consulaires dans tous les ports, villes, et places de l'autre, sauf dans les localités où il y aurait inconvénient à admettre de tels officiers Consulaires.

Cette exception ne sera cependant pas faite à l'égard de l'une des Parties Contractantes, sans l'être également à l'égard de toutes les autres Puissances.

Les Consuls-Généraux, Consuls, Vice-Consuls, Pro-Consuls, et Agents Consulaires exerceront toutes leurs fonctions et jouiront de tous les privilèges, exemptions, et immunités qui sont ou seront accordés à l'avenir aux officiers Consulaires de la nation la plus favorisée.

XVI. Les sujets de chacune des Hautes Parties Contractantes jouiront, sur le territoire de l'autre, de la même protection que les sujets du pays relativement aux patentes, marques de fabrique et dessins, en remplissant les formalités prescrites par la loi.

XVII. Le Gouvernement de Sa Majesté le Roi de Portugal donne, en ce qui le concerne, son adhésion à l'arrangement suivant:

Les divers quartiers étrangers qui existent au Japon seront incorporés aux communes respectives du Japon et feront dès lors partie du système municipal du Japon.

Les autorités Japonaises compétentes assumeront en conséquence toutes les obligations et tous les devoirs municipaux qui résultent de ce nouvel état de choses, et les fonds et biens municipaux qui pourraient appartenir à ces quartiers seront, de plein droit, transférés aux dites autorités Japonaises.

Lorsque les changements ci-dessus indiqués auront été effectués, les baux à perpétuité en vertu desquels les étrangers possèdent actuellement des propriétés dans les quartiers seront confirmés, et les propriétés de cette nature ne donneront lieu à aucuns impôts, taxes, charges, contributions ou conditions quelconques autres que ceux expressément stipulés dans les baux en question. Il est toutefois entendu qu'aux autorités Consulaires dont il y est fait mention seront substituées les autorités Japonaises.

Les terrains que le Gouvernement Japonais aurait concédés exempts de rentes, vu l'usage public auquel ils étaient affectés, resteront, sous la réserve des droits de la souveraineté territoriale, affranchis d'une manière permanente de tous impôts, taxes et charges, et ils ne seront point détournés de l'usage auquel ils étaient primitivement destinés.

XVIII. Le présent Traité prendra, du jour où il entrera en vigueur, lieu et place des stipulations du Traité et de tous les Arrangements et Conventions subsidiaires existant entre les Hautes Parties Contractantes, et à partir du même jour les dites stipulations, Arrangements, et Conventions cesseront d'être obligatoires.

XIX. Le présent Traité entrera en vigueur le 17e jour du 7e mois de la 32e année de Meiji, correspondant au 17 juillet 1899, et il restera

valable pendant une période de douze ans après le jour où il entrera en vigueur. Il sera exécutoire, pour le Portugal, dans la métropole, aux îles adjacentes (Madère, Porto-Santo, et Azores), et à Macau.

L'une ou l'autre des Hautes Parties Contractantes aura le droit, à un moment quelconque après que onze ans se seront écoulés depuis l'entrée en vigueur de ce Traité, de notifier à l'autre son intention de mettre fin au présent Traité, et à l'expiration de douze mois après cette notification ce Traité cessera et finira entièrement.

XX. Le présent Traité sera ratifié par les Hautes Parties Contractantes et les ratifications en seront échangées à Lisbonne au plus tôt possible, n'excédant pas le délai de six mois après la signature.

En foi de quoi les Plénipotentiaires des deux pays ont signé le présent Traité, fait en double exemplaire et écrit en langue française, et y ont apposé leurs sceaux.

Fait à Lisbonne, le 26e jour du 1er mois de la 30e année de Meiji, correspondant au 26 janvier 1897.

(L. S.) *Soné Arasuké.*
(L. S.) *Luiz do Soveral.*

Protocole.

Le Gouvernement de Sa Majesté l'Empereur du Japon et le Gouvernement de Sa Majesté le Roi de Portugul et des Algarves, jugeant utile, dans l'intérêt des deux pays, de régler certaines matières spéciales qui les concernent mutuellement, séparément du Traité de Commerce et de Navigation signé en ce jour, sont convenus, par leurs Plénipotentiaries respectifs, des dispositions suivantes:

1. Il est convenu par les Parties Contractantes qu'un mois après l'échange des ratifications du Traité de Commerce et de Navigation signé en ce jour, le Tarif d'Importation aujourd'hui en vigueur à l'égard des articles et marchandises importés au Japon par les sujets de Sa Majesté le Roi de Portugal cessera l'être obligatoire. A partir du même moment le Tarif Général établi par la loi intérieure du Japon sera applicable aux articles et marchandises produits ou manufacturés du territoire de Sa Majesté le Roi de Portugal sur leur importation au Japon, sous réserve des stipulations de l'Article XXIII du Traité existant entre les deux Parties Contractantes, aussi longtemps que les dites stipulations resteront en vigueur, puis subséquemment de l'Article IV du Traité signé en ce jour. Mais aucune disposition de ce Protocole n'aura pour effet de limiter le droit du Gouvernement Japonais de restreindre ou de prohiber l'importation des drogues, médecines, aliments ou boissons altérés; des gravures, peintures, livres, cartes, gravures lithographiées ou autres, et photographies indécentes ou obscènes, ou tous autres articles indécents ou obscènes; articles en violation des lois japonaises sur les patentes, les marques de fabrique ou

la propriété littéraire; ou tout autre article qui, pour des raisons sanitaires ou en vue de la sécurité ou de morale publique, pourra offrir quelque danger.

Il est toutefois entendu que dans le cas où l'application du principe de la nation la plus favorisée en matière des droits de douane, garanti par le Traité signé en ce jour, aussi bien que par ce Protocole, se trouvera non satisfaisante dans la pratique, les deux Gouvernements s'accorderont à substituer le Tarif Conventionnel concernant les articles d'exportation ayant un intérêt spécial pour chacun des deux pays.

2. Le Gouvernement japonais consent, en attendant l'ouverture complète du pays aux sujets Portugais, d'étendre le système existant des passeports de façon à permettre aux Portugais, sur la production d'un certificat favorable émanant de la Légation du Portugal à Tokio ou de l'un quelconque des Consulats du Portugal dans les ports ouverts, d'obtenir sur leur demande du Ministre Impérial des Affaires Étrangères ou des autorités principales de la Préfecture dans laquelle est situé un port ouvert, des passeports valables pour toute l'étendue du pays et pour toute période n'excédant pas douze mois.

Il est bien entendu que, sous cette réserve, les lois et règlements existants et régissant les sujets Portugais qui voyagent dans l'Empire du Japon sont maintenus.

3. Le Gouvernement japonais consent que l'Article XVI du Traité signé en ce jour pourra être mis en vigueur à partir du jour de l'échange des ratifications du dit Traité.

4. Les Plénipotentiaires soussignés ont convenu que ce Protocole sera soumis à l'approbation des deux Hautes Parties Contractantes en même que le Traité de Commerce et de Navigation signé en ce jour, et que, quand le dit Traité sera ratifié, les stipulations contenues dans ce Protocole seront également considérées comme approuvées, sans qu'il soit nécessaire d'une ratification formelle ultérieure.

Il est également convenu que ce Protocole prendra fin en même temps que le dit Traité cessera à être obligatoire.

En foi de quoi les Plénipotentiaires des deux pays ont signé le 30e année de Meiji, correspondant au 27 janvier 1897.

(L. S.) *Soné Arasuké.*
(L. S.) *Luiz do Soveral.*

40.

ALLEMAGNE, RUSSIE.

Procès-verbal destiné à fixer les résultats des Conférences, qui ont eu lieu à Berlin pour étudier certaines questions relatives à l'interprétation et à l'exécution du Traité de Commerce du $\frac{\text{10 février}}{\text{29 janvier}}$ 1894;*) signé à Berlin le 9 février 1897.

Des Délégués Allemands et Russes se sont réunis en Conférence, d'ordre de leurs Gouvernements, pour étudier certaines questions relatives à l'interprétation et à l'exécution du Traité de Commerce conclu entre l'Allemagne et la Russie.

Ces Délégués ayant délibéré à cet effet dans une série de séances sur les détails de ces questions, les Soussignés, dûment autorisés par leurs Gouvernements, sont tombés d'accord de fixer dans le présent Protocole les résultats auxquels ont abouti les délibérations de la Conférence, savoir:

I. Questions Vétérinaires.

Le Gouvernement russe a énoncé le désir de se concerter avec celui de l'Allemagne sur les conditions et garanties sous lesquelles les animaux vivants, la viande et certains produits animaux et alimentaires pourraient être admis, au moins dans une certaine mesure, à l'importation en Allemagne, et au transit à travers ce pays.

Le Gouvernement allemand, vu l'état actuel de l'organisation vétérinaire en Russie, ne se voit pas à même de revenir sur les mesures générales prises en matière vétérinaire, y compris la prohibition de la viande de porc crue. Pour ce qui concerne la question de savoir si le nombre des porcs vivants admis en Haute-Silésie, ne saurait être porté de nouveau au chiffre antérieur, question soulevée par la délégation Russe, le Gouvernement allemand, vu les considérations sur lesquelles est basée cette admission, croit devoir se réserver pleine et entière autonomie par rapport au nombre admis ou à admettre, tant que la mesure générale prohibitive reste en vigueur.

Toutefois, le Gouvernement allemand ne refusera pas, dès que la réorganisation vétérinaire, reconnue nécessaire par les hommes compétents en Russie même, sera terminée, de reprendre en considération les questions de l'importation en Allemagne et du transit par l'Allemagne du bétail et de la viande crue de Russie.

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*) V. **N. R. G.** 2e s. XX. 6.

Quant à présent, le Gouvernement allemand à dû se borner à provoquer l'admission de quelques facilités et exceptions notamment accordées en faveur du trafic dans les rapports-frontière, savoir:

1. Les habitants de la frontière jouissant de la faveur autonome d'importer de la Russie, en franchise de douane, de la viande jusqu'à concurrence de 2 kilog. par tête, des Décrets viennent d'être publiés autorisant, dans les limites de cette faveur, l'admission de la viande de porc non cuite. Toutefois, cette concession n'est faite qu'à la condition que les autorisés Russes prêtent leur concours efficace pour empêcher des abus qui pourraient résulter de cette concession.

Sous les mêmes conditions, et pour la même durée, cette concession a été étendue aux provisions de bouche dont il est question au § 8 de la 4e partie du Protocole Final du Traité de Commerce conclu entre les deux pays.

2. Le Gouvernement allemand aura soin, d'augmenter dans les districts-frontière le chiffre des vétérinaires chargés des inspections des chevaux, respectivement le nombre même des inspections, et d'en établir, dans la mesure du possible, aux endroits pour lesquels la nécessité en aurait été demontrée par le Gouvernement Russe. L'inspection sera facilitée de manière qu'elle pourra avoir lieu même dans le courant des quatre semaines qui suivent la dernière inspection, et qu'à partir de chaque nouvelle inspection se datera un autre délai de quatre semaines.

Le supplément récemment publié du Répertoire Douanier Allemand vient au devant du désir énoncé par le Gouvernement russe par rapport aux provisions de fourrage.

3. Le foin et la paille pressés (même pressés à la frontière) ont été admis à transiter l'Allemagne à la condition que le transport se fasse dans des wagons plombés, soit fermés, soit couverts.

Le foin et la paille provenant des districts-frontière Russes, et destinés à l'usage des districts-frontière Allemands, sont admis en état non pressé. Il est toutefois entendu que dans le cas où une épizootie et notamment celle de la fièvre aphteuse, de la pneumonie, du charbon ou de la morve, venait à éclater dans le lieu de provenance, cette concession pourrait subir des restrictions conformément à l'Article V du Traité de Commerce, et sous la condition d'information préalable dans le sens du No. II du présent Protocole.

II. Échange d'Informations réciproque.

Conformément au principe prévu dans le § 20 de la 4e partie du Protocole Final du Traité de Commerce, le mode suivant d'un échange d'informations réciproque sera établi.

Les mesures locales émanées—de propre initiative—d'un Chef d'Arrondissement (Landrath en Allemagne, Natchalnik ouiesda, isprawnik en Russie) seront directement communiquées aux Chefs d'Arrondissement respectifs de l'autre pays. Cette communication comprendra en même

temps les motifs de la mesure, à moins que la nature de celle-ci ne rende superflue leur indication.

Les mesures émanées en Allemagne d'un Président-en-chef de province („Oberpräsident") ou d'un Président de Régence („Regierungspräsident"), et en Russie d'un Gouverneur-Général ou d'un Gouverneur, seront communiquées, de part et d'autre, au fonctionnaire respectif ayant le rang correspondant. La communication des motifs de ces mesures se fera par voie diplomatique.

Les mesures émanées des autorités centrales des deux pays, y compris les motifs, seront communiquées réciproquement par voie diplomatique.

Il est entendu que les informations concernant les mesures vétérinaires seront communiquées, de part et d'autre, d'avance, si faire se peut, et au plus tard dès qu'elles seront édictées.

Les deux Gouvernements échangeront des Tableaux dénominatifs indiquant, de part et d'autre, les autorités entre lesquelles l'échange réciproque devra avoir lieu conformément au mode sus-indiqué.

III. Questions Douanières.

1. Les Délégués Allemands ont remis à ceux de la Russie un Tableau constatant les mesures prises de la part de l' Allemagne pour accomplir les conditions prévues par le § 1 de la 4e partie du Protocole Final du Traité de Commerce.

2. La Douane Allemande de Gurzno vis-à-vis de Karw sera transférée à la frontière dès que la construction, d'ailleurs déjà commencée, des localités nécessaires sera achevée. La possibilité en est prévue pour le 1er novembre (N.S.) de l'année courante. Du reste des mesures seront prises dès à présent pour admettre plus fréquemment le transport sous surveillance douanière des marchandises de la frontière vers la station.

3. Le Gouvernement allemand a procédé aux mesures nécessaires pour pouvoir admettre à Herby, dans le plus bref délai possible, l'expédition en transit des marchandises russes, en tant que la douane correspondante du côté de la Russie sera munie des attributions analogues.

Du reste le Gouvernement allemand informera d'avance celui de la Russie du terme exacte auquel cette admission pourra avoir lieu.

4. Le Gouvernement allemand consent en principe, mais sous réserve de révocation en cas d'abus, que le bétail russe provenant de la bourgade de Boleslawice puisse traverser la frontière pour pâturer sur les terrains situés en Allemagne et appartenant à cette bourgade ou à des particuliers-propriétaires du bétail. Toutefois cette concession est subordonnée à la condition que la bourgade de Boleslawice soit libre d'épizooties et que des vétérinaires allemands soient admis en tout temps sur le territoire de cette bourgade pour y faire les constatations nécessaires par rapport à l'état vétérinaire de l'endroit, ainsi que du bétail destiné à pâturer au delà de la frontière. Ces constatations, pour autant qu'elles auront lieu à l'initiative des autorités allemandes et à des termes désignés d'avance par ces dernières, seront gratuites.

En outre, dans le but d'empêcher la contrebande du bétail russe, le Gouvernement allemand demanderait les garanties nécessaires pour pouvoir constater l'identité des bestiaux.

Les dispositions qui précèdent entreront en vigueur dès l'ouverture du pâturage au printemps prochain.

5. Le Gouvernement russe a donné les ordres nécessaires afin que

a) A partir du 15/27 janvier courant les marchandises visées par les numéros 1, 2, 3, et 5 de la Circulaire Russe du $\frac{\text{22 août}}{\text{3 septembre}}$ 1896 soient frappées à leur entrée en Russie par les droits perçus jusqu'à la mise en vigueur de la dite Circulaire; et

b) A partir du $\frac{\text{26 janvier}}{\text{7 février}}$ 1897 les objets énumérés dans l'Annexe ci-jointe payent, à leur entrée en Russie, les droits qui y sont indiqués.

6. Pour ce qui concerne les effets et le mobilier personnels des Consuls de carrière Allemands, le Ministre des Finances de Russie se déclare disposé à accorder une faveur dépassant le chiffre de réduction des droits d'entrée actuellement établi, tout en se réservant de prendre la décision après examen dans chaque pas spécial.

7. Le même Ministre se déclare disposé en principe à restituer les attributions spéciales qu'il avait accordées à certaines douanes-barrières.

8. Par rapport au système des amendes douanières, dont la modification a été prévue par le § 15 de la 4e partie du Protocole Final du Traité de Commerce, le Gouvernement russe, en constatant que les travaux préparatoires pour cette réforme sont déjà en train, s'engage à réaliser sa promesse aussitôt que faire se pourra.

9. Quant aux plaintes des intéressés Allemands concernant la question des tares les Délégués Russes se réfèrent à la Circulaire du Département des Douanes datée du 28 novembre 1896 (N.S.).

IV. Navigation Fluviale.

Quant à l'arrangement spécial prévu dans la 1re partie du Protocole Final du Traité de Commerce sur l'exercice de la navigation sur le Niemen, la Vistule, et la Wartha, le Gouvernement russe

1. Consent à admettre les bateaux à vapeur allemands pour passagers sur le Niemen jusqu'à Georgenburg à la condition toutefois, acceptée par l'Allemagne, que les bateaux à vapeur russes pour passagers soient admis jusqu'à Schmaleningken et qu'ils puissent hiverner dans ce port;

Cette admission entrera en vigueur, de part et d'autre, dès l'ouverture de la navigation de cette année;

2. Consent à admettre le timbrage, par les Chambres Douanières Russes établies aux bords de la Vistule, des lettres de voiture et des connaissements pour la cargaison des bateaux à destination de l'Allemagne;

3. Se propose d'introduire en Russie pour la navigation fluviale le système du jaugeage, et se déclare disposé à s'entendre, en son temps,

avec l'Allemagne pour la reconnaissance réciproque des documents certifiant ce jaugeage.

Pour le reste de l'arrangement les deux Gouvernements s'entendront, si nécessité il y a.

V. Formalités de Passeports et Relations Limitrophes.

1. La Russie accorde une durée de vingt-huit jours pour la validité des cartes de légitimation avec le droit pour le porteur, comme c'est le cas à présent, de passer la frontière à plusieurs reprises. Ces cartes de légitimation, rédigées en deux langues, en russe et en allemand, ne seront délivrées, de part et d'autre, qu'aux nationaux et aux ressortissants de l'autre pays domiciliés dans le pays où les cartes sont délivrées.

2. Il est entendu que les ouvriers Russes qui passent en Allemagne pour y être occupés à des travaux agricoles ou ayant rapport à l'agriculture seront munis gratuitement de papiers de légitimation valables pour la durée de huit mois fixée provisoirement du 1er avril au 1er décembre (N.S.). Ces papiers seront rédigés en russe et en allemand.

Les documents mentionnés sous les numéros 1 et 2 seront délivrés à l'usage au plus tard dès le 1er avril (V.S.) de cette année.

3. Les Délégués Allemands ont remis à ceux de la Russie une liste des autorités chargées en Allemagne de la réintégration des voyageurs (§ 22 de la 4e partie du Protocole Final du Traité de Commerce).

Au moment de signer le présent Protocole les Soussignés sont convenus que les concessions faites de part et d'autre seront réalisées, à défaut de l'indication, dans ce Protocole même, d'un terme spécial, dans le plus bref délai possible.

En foi de quoi ce Protocole a été signé, en double expédition, à Berlin, le 9 février 1897.

(L. S.) *Baron de Marschall.*
(L. S.) *Reichardt.*
(L. S.) *Comte d'Osten-Sacken.*
(L. S.) *de Timiriaseff.*

41.

RUSSIE, ESPAGNE.

Déclaration concernant le Jaugeage des vaissaux; signée a Madrid, $\frac{27 \text{ février}}{11 \text{ mars}}$ 1897.

Les soussignés, Ambassadeur Extraordinaire de Sa Majesté l'Empereur de Toutes les Russies et le Ministre d'Etat de Sa Majesté la Reine-Régente d'Espagne, dûment autorisés par leurs Gouvernements, déclarent que les navires appartenant à l'un des deux États et jaugés d'après la méthode anglaise, système Moorsom, en vigueur tant dans l'Empire de Russie que dans le Royaume d'Espagne pour le jaugeage des bâtiments, seront admis, à charge de réciprocité, dans les ports de l'autre État sans être assujettis, pour le paiement des droits de navigation, à aucune nouvelle opération de jaugeage, le tonnage net de registre inscrit sur les papiers de bord étant considéré comme équivalant au tonnage net de registre des navires nationaux.

Les dispositions du Règlement Russe ne s'accordant pas entièrement avec les dispositions Espagnoles relativement au mode suivi pour déterminer les espaces destinés aux soutes à charbon des bateaux à vapeur, les déductions à cet égard seront, pour les navires espagnols abordant dans un port russe, calculées d'après un remesurage partiel des dits espaces en conformité du Règlement Russe sanctionné le $\frac{20 \text{ décembre } 1879}{1 \text{ janvier } 1880}$.

Quant aux bateaux à vapeurs Russes abordant dans un port espagnol, ils seront exemptés de rejaugeage, et leur capacité, si les capitaines en expriment le désir, sera calculée d'après les chiffres indiqués dans les certificats de jauge en conformité du Règlement Espagnol.

Attendu, cependant, que dans le Grand Duché de Finlande les dispositions fixées par le Règlement du 4 octobre 1876 concernant le jaugeage des bâtiments ne s'accordent pas entièrement avec les dispositions du Règlement Espagnol du 2 décembre 1874 relativement au mode de détermination du tonnage net des bateaux à vapeur, il a été en outre convenu entre les Soussignés des stipulations suivantes:

1. Les certificats de jaugeage finlandais et espagnols feront foi sans aucune autre formalité dans les deux pays pour le tonnage brut de tous les bateaux quels qu'ils soient et pour le tonnage net des voiliers.

2. a) Les certificats de jaugeage Espagnols délivrés après le 2 décembre 1874 seront reconnus en Finlande sans aucune autre formalité à l'égard du tonnage net des bateaux à vapeur ou des bâtiments mûs par une autre force artificielle.

Toutefois, les propriétaires et les capitaines de ces bateaux à vapeur auront le droit de demander aux autorités finlandaises le mesurage d'après

le Règlement Finlandais du 4 octobre 1876 des places occupées par les machines, les chaudières, et les soutes à charbon.

Dans ce cas le tonnage net sera calculé d'après le tonnage brut indiqué dans le certificat Espagnol et d'après le résultat de ce nouveau jaugeage.

b) Les certificats de jaugeage Finlandais, délivrés après le 31 mai 1877 seront reconnus Espagne quant au tonnage net des bateaux à vapeur ou des bâtiments mûs par une autre force artificielle, non compris les places occupées par les machines, les chaudières, et les soutes à charbon, qui devront être soumises au jaugeage d'aprés les Articles 19, 20, 21, et 22 du Règlement Espagnol du 2 décembre 1874. Le tonnage net en sera calculé d'après le tonnage brut indiqué dans le certificat Finlandais et d'après le résultat de ce nouveau jaugeage.

3. Les frais de ces jaugeages partiels seront calculés d'après les Règlements en vigueur dans les deux pays, mais seulement pour le mesurage des places qui ont été réellement jaugées,

Les dispositions qui forment l'objet de la présente Déclaration commenceront à être appliquées simultanément dans les deux pays le 1/13 juillet 1897.

Fait en double expédition à Madrid, le $\frac{27 \text{ février}}{11 \text{ mars}}$, 1897.

(L. S.) *Schévitch.*
(L. S.) *Duc de Tetuan.*

42.

ALLEMAGNE, PÉROU.

Arrangement destiné à assurer la position réciproque des Consuls; signé à Lima, le 28 juin 1897*)

A Meeting having taken place between the undersigned Otto G. Zembsch, Minister-Resident of the German Empire, and Enrique de la Riva-Agüero, Peruvian Minister for Foreign Affairs, the former stated as follows:

That the present position of German Consular officers in Peru, and of Peruvian Consular officers in Germany, is not completely regulated, because the two States have not concluded any Consular Convention, or other Treaty taking its place, and that this state of things is calculated to hamper the said officials in the exercise of their duties;

That in his opinion the interests of both countries, as properly understood, demand that, without prejudice to the discussion of the project for a Treaty of Friendship, Commerce, and Navigation which he had had the

*) Les ratifications ont été échangées à Lima le 15 juin 1899.

honour to present, and which includes the question of Consular representation, the question of the Consular Service should meanwhile be regulated, as the progress of such discussion must, from its nature, be slow;

That, with this object, and having obtained the necessary authority, he hereby proposes, in the name of his Government, to make the following declaration, as has previously been done in analogous cases:

„German Consular officers of all grades in Peru, and Peruvian Consular officers of all grades in Germany, shall enjoy the same attributes, exemptions, and prerogatives in the State in which they reside as have been or will be granted to the most favoured nation, so long as no express Treaty has been concluded upon the subject between the two States, and has come legally into force.“

43.

PAYS-BAS, MEXIQUE.

Traité de commerce et de navigation; signé à Mexico, le 22 septembre 1897.*)

The President of the United States of Mexico and Her Majesty the Queen-Regent, in the name of Her Majesty the Queen of the Netherlands, being desirous of promoting the development of relations of friendship and commerce between the two countries, have resolved to conclude a Treaty with that object, and have named as their respective Plenipotentiaries:

The President of the United States of Mexico, Señor Licenciado Don Francisco Leon de la Barra; and

Her Majesty the Queen-Regent of the Kingdom of the Netherlands, Karel Maximiliaan Gustaaf von Düring, Officer of the Order of Orange-Nassau;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon the following Articles:

Art. I. The respective citizens and subjects of each of the two High Contracting Parties shall be on a complete equality with the natives of the other in all that regards the carrying on of commerce or industry, the payment of taxes and the right to acquire and dispose of all kinds of personal property by purchase, sale, donation, exchange, will or succession ab intestato.

In all other respects they shall be on an equality with the subjects of the most favoured foreign nation.

The foregoing provisions shall not derogate the legal distinctions between persons of western and those of eastern origin in the Dutch possessions in the Eastern Archipelago.

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*) Les ratifications ont été échangées à Mexico, le 12 juillet 1899.

II. The produce and manufactures of the United States of Mexico, whatever their origin may be, and merchandize, without distinction of origin, coming from such States, shall be admitted into the Kingdom of the Netherlands and its Colonies, on the same conditions as similar products of the most favoured foreign nation, without being subject to other or higher duties, of whatever kind, than the latter.

Reciprocally, the produce and manufactures of the Kingdom of the Netherlands and its Colonies, whatever their origin may be, and the merchandize, without distinction of origin, coming from that Kingdom or its Colonies, shall be admitted into the United States of Mexico on the same conditions as similar products of the most favoured foreign nation, without being subject to other or higher duties, of whatever kind, than the latter.

These stipulations do not apply to the exemption from import duties, granted to the native States of the Eastern Archipelago, on their produce imported into the Colonies of the Netherlands.

III. The two High Contracting Parties guarantee reciprocally most-favoured-nation treatment in all that concerne transit and navigation.

IV. No prohibition or restriction of importation or exportation shall be established in the commerce of the two countries, which shall not apply to all other nations, except for sanitary reasons or to prevent the spread of epizootic diseases or the destruction of crops, or on account of events of war.

V. In all that relates to navigation the two High Contracting Parties guarantee reciprocally most-favoured-nation treatment for the vessels and cargoes of the other.

These dispositions do not apply to the privileges granted in the Dutch Colonies to the native States of the Eastern Archipelago.

VI. The High Contracting Parties agree to consider, as a limit of their territorial waters on their respective coasts, the distance of 20 kilom. reckoned from the line of low-water mark. Nevertheless this stipulation shall have no effect, except in what may relate to the observance and application of the Custom-bouse Regulations and the measures for preventing smuggling, and can in no way be extended to other questions of international maritime law.

VII. The citizens and subjects of each of the two High Contracting Parties shall enjoy in the dominions of the other, on equal conditions, the same protection as the natives of the country or the citizens or subjects of the most favoured foreign nation in everything referring to the ownership of trade or mercantile marks.

VIII. The citizens and subjects of each of the two High Contracting Parties shall enjoy in the dominions of the other, in matters of commerce, navigation, industry, and taxes, all the privileges, exemptions and favours which may have been or may in the future be granted to the citizens or subjects of the most favoured foreign nation.

IX. The citizens and subjects of each of the High Contracting Parties shall enjoy in the dominions of the other complete liberty of conscience, and shall be allowed to practise their religion in the manner permitted by the Constitution and the laws of the country.

X. The citizens and subjects of each of the two High Contracting Parties shall enjoy in the dominions of the other the most ample and constant protection for their persons, houses and property.

They shall not be entitled to indemnifications for losses sustained, in time of insurrection or civil war, at the hands of insurgents or of tribes or savage hordes who may have risen against the Government, except where there may have been fault or want of vigilance on the part of the authorities or their agents.

XI. The High Contracting Parties agree to concede to the Diplomatic and Consular Agents of the other, the same rights, privileges and immunities as are, or may in future be enjoyed, in equal circumstances, by the Diplomatic and Consular Agents of the same rank of the most favoured foreign nation.

XII. In the case of the death of a citizen or subject of one of the High Contracting Parties in the dominions of the other, should there not be at the place where the death takes place any known heir, either personally present or represented, or an executor appointed by the deceased, or, in the case of the heir being a minor, a guardian, the respective Consular authority shall have the right to perform, for the preservation and administration of the estate, whatever acts are or may in the future be permitted to the Consular functionaries of the most favoured foreign nation.

XIII. All operations respecting the salvage of Mexican vessels which may be shipwrecked on the coasts of the Netherlands shall be directed by the Mexican Consular officers, and reciprocally the Dutch Consular officers shall direct all the operations relating to the salvage of any vessels of their nation which may be wrecked or stranded on the coasts of Mexico.

The local authorities of the two countries shall only intervene for the purpose of maintaining order, guaranteeing the interests of the salvors if these do not belong to the crew of the shipwrecked vessel, and insuring the execution of the necessary measures for the entry and clearance of the merchandize saved.

During the absence and until the arrival of the Consular officer, the local authorities shall also take the necessary steps for the protection of the shipwrecked persons and the preservation of the cargo.

It is likewise agreed that the merchandize saved shall not be subject to Custom-house duties unless cleared for consumption.

XIV. The Consular officers of the two countries may cause to be arrested, and may send on board or remit to their country, any officers, seamen or other members of the crew of a war or merchant-vessel of their nation, who may have deserted in one of the ports of the other.

For this purpose, they shall address themselves in writing to the competent local authorities, and prove, by the presentation of the original or a duly certified copy of the ship's register or of the list of the crew, or by other official documents, that the individuals claimed formed part of such crew.

On their demand being proved, they shall be given all possible assistance in searching for and arresting such deserters, who shall be detained and guarded in the public prisons of the country at the request and the expense of the Consular functionaries, until the latter find an opportunity of sending them on.

Nevertheless, if such opportunity does not present itself within the period of two months counted from the day of the arrest, the deserters shall be set at liberty and shall not be re-arrested for the same cause.

It is understood that persons who may be citizens or subjects of the nation in which the request is made, are excepted from the above stipulations.

Should the deserter have committed some offence, he shall not be placed at the disposal of the Consul until the competent Court has given a decision in the matter and until the sentence, if any, has been carried out.

XV. Any questions or controversies on the subject of the interpretation, application or execution of the present Treaty, which cannot be decided amicably, shall be submitted to the decision of a Board of Arbitrators. Each of the two High Contracting Parties shall appoint an Arbitrator, and these two Arbitrators shall appoint a third. If an Agreement cannot be arrived at with regard to a third Arbitrator, the latter shall be appointed by the Government of some third State, to be selected by the High Contracting Parties.

XVI. The High Contracting Parties, animated by a desire to avoid anything which might disturb their friendly relations, agree that their Diplomatic Representatives shall not intervene officially (except to obtain, where the occasion warrants, a friendly arrangement) in the claims or complaints of private individuals, relating to matters which are within the jurisdiction of the Civil or Criminal Courts, and which have already been submitted to the Tribunals of the country, except in the case of denial of justice, delay in its administration, contrary to usage or the law, or non-execution of a sentence definitely and finally decided by the Tribunals, or lastly, in those cases in which, in spite of the legal resources having been exhausted, there is an evident violation of the existing Treaties between the two High Contracting Powers, or of the principles of international law, whether public or private, universally recognized by civilized nations.

XVII. The present Treaty shall come into operation three months after the exchange of the ratifications, and shall continue in force for five years from the latter date.

If neither of the two High Contracting Parties shall have given notice twelve months before the expiration of such period, of their intention of terminating the present Treaty, it shall remain in force until the expiration

of one year from the day on which either of the two High Contracting Parties shall have given such notice.

The present Treaty shall be ratified, and the ratifications exchanged in Mexico, as soon as possible, after the constitutional formalities required in both countries have been fulfilled.

In witness whereof the respective Plenipotentiaries have signed the said Treaty in two originals, and have affixed their seals thereto.

Done in Mexico, the 22nd day of September 1897.

(L. S.) *F. L. de la Barra.*
(L. S.) *Carl Max Gustav von Düring.*

44.

AUTRICHE-HONGRIE, JAPON.

Traité de commerce; signé à Vienne, le 5 décembre 1897.*)

Oesterr. Reichsgesetz-Blatt.

Sa Majesté l'Empereur du Japon et Sa Majesté l'Empereur d'Autriche, Roi de Bohême, &c., et Roi Apostolique de Hongrie, animés d'un égal désir de maintenir les bons rapports déjà heureusement établis entre eux, en étendant et en augmentant les relations entre leurs États respectifs, et persuadés que ce but ne saurait être mieux atteint que par la revision du Traité jusqu'ici vigueur entre leurs pays, ont résolu de procéder à cette revision sur les bases de l'équité et de l'intérêt mutuels, et ont nommé à cet effet pour leurs Plénipotentiaires, savoir:

Sa Majesté l'Empereur du Japon, le Sieur Takahira Kogoro, Shoshii, deuxième classe de l'Ordre Impérial du Soleil Levant, son Envoyé Extraordinaire et Ministre Pleniopentiaire à Vienne; et

Sa Majesté l'Empereur d'Autriche, Roi de Bohême, &c., et Roi Apostolique de Hongrie, le Sieur Agenor Goluchowski de Goluchowo, son Conseiller Intime Actuel, Chambellan, Ministre de la Maison Impériale et Royale et des Affaires Étrangères, Chevalier de l'Ordre de la Toison d'Or et Chevalier de première classe de l'Ordre Imperial de la Couronne de Fer;

Lesquel, après s'être communiqué leurs pleins pouvoirs, trouvés en bonne et due forme, ont conclu le présent Traité de Commerce et de Navigation:

Art. I. Les sujets de chacune des Hautes Parties Contractantes auront toute liberté d'entrer, de voyager, ou de résider en un lieu quel-

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*) Les ratifications ont été échangées à Vienne, le 30 novembre 1898.

conque des territoires de l'autre, et y jouiront d'une pleine et entière protection pour leurs personnes et leurs proriétés.

Ils auront un libre et facile accès auprès des Tribunaux de justice tant pour réclamer que pour défendre leurs droits; ils seront, sur le même pied qne les nationaux, libres de choisir et d'employer des avoués, avocats et mandataires afin de poursuivre et de défendre leurs droits devant ces Tribunaux. Quant aux autres matières qui se rapportent à l'administration de la justice, ils jouiront de tous les droits et privilèges dont jouissent les nationaux.

Pour tout ce qui concerne le droit de résider et de voyager, de posséder des biens et effets mobiliers quelconques, de déposer, de quelque manière que ce soit, des biens de toutes sortes qu'ils peuvent légalement acquérir, et transmettre par succession, par testament ou autre manière, les sujets de chacune des Hautes Parties Contractantes jouiront, dans les territoires de l'autre, des mêmes privilèges, libertés, et droits que les nationaux ou les sujets de la nation la plus favorisée, sans pouvoir être tenus à acquitter des impôts ou taxes autres ou plus éléves. Les sujets de chacune des Hautes Parties Contractantes jouiront, dans les territoires de l'autre, d'une entière liberté de conscience et pourront, en se conformant aux lois, ordonnances, et règlements du pays, se livrer à l'exercice privé ou public de leur culte; ils jouiront aussi du droit, d'inhumer leurs nationaux respectifs, suivant leurs coutumes religieuses, dans des lieux convenables et appropriés qui seront établis et entretenus à cet effet.

Ils ne seront contraints, sous aucun prétexte, à subir des charges ou à payer des taxes autres ou plus élevées que celles qui sont ou seront perçues sur les nationaux ou les sujets de la nation la plus favorisée.

II. Les sujets de chacune des Parties Contractantes qui résident dans les territoires de l'autre ne seront astreints à aucun service militaire obligatoire, soit dans l'armée ou la marine, soit dans la garde nationale ou la milice; ils seront exempts de toutes contributions imposées en lieu et place du service personnel et de tous emprunts forcés, de toutes exactions ou de contributions militaires.

Sont toutefois exceptées les charges qui sont attachées à la possession d'un bien-fonds, ainsi que les prestations et réquisitions militaires auxquelles tous les nationaux peuvent être appelés à se soumettre comme propriétaires, fermiers, ou locataires d'immeubles, en tant que la possession d'un bien-fonds ou d'immeubles sera permise.

III. Il y aura réciproquement pleine et entière liberté de commerce et de navigation entre les territoires des Hautes Parties Contractantes.

Les sujets de chacune des Hautes Parties Contractantes pourront, en quelque lieu que ce soit des territoires de l'autre, faire le commerce tant en gros qu'en détail de tous produits, objets fabriqués, tous articles de commerce licite, soit en personne, soit par leurs agents, seuls ou en entrant en société avec des étrangers ou avec des nationanx; ils pourront y posséder, louer, et occuper des maisons et boutiques, des fabriques, des magasins, louer des terres à l'effet d'y résider ou d'y exercer une industrie

ou faire le commerce, le tout en se conformant comme les nationaux eux-mêmes aux lois, aux règlements de police et de douane du pays.

Ils auront pleine liberté d'entrer avec leurs navires et leurs cargaisons dans tous les ports et rivières de leurs territoires respectifs qui sont ou pourront être ouverts au commerce extérieur, et jouiront, en matière de commerce, d'industrie, et de navigation, du même traitement que les nationaux ou les sujets de la nation la plus favorisée, sans avoir à payer aucuns impôts, taxes, ou droits, de quelque nature ou de quelque dénomination que ce soit, perçus au nom ou au profit du Gouvernement, de fonctionnaires publics, de particuliers, de corporations ou d'établissements quelconques, autres ou plus élevés que ceux imposés aux nationaux ou aux sujets de la nation la plus favorisée; le tout en se conformant aux lois, ordonnances, et règlements des pays respectifs.

IV. Les habitations, fabriques, magasins, et boutiques des sujets de chacune des Hautes Parties Contractantes dans les territoires de l'autre, ainsi que leurs dépendances, servant soit à la demeure, soit à l'industrie ou au commerce, seront respectés.

Il ne sera point permis d'y procéder à des perquisitions ou visites domiciliaires non plus que d'examiner ou d'inspecter les livres, papiers, ou comptes, sauf dans les conditions et formes prescrites par les lois, ordonnances, et règlements applicables aux nationaux ou aux sujets de la nation la plus favorisée.

V. Il ne sera imposé à l'importation dans la Monarchie Austro-Hongroise de tous articles produits ou fabriqués dans le territoire de Sa Majesté l'Empereur du Japon, de quelque endroit qu'ils viennent, et à l'importation dans le territoire de Sa Majesté l'Empereur du Japon de tous articles produits ou fabriqués dans la Monarchie Austro-Hongroise, de quelque endroit qu'ils viennent, aucun droit autre ou plus élevé que celui imposé aux articles similaires produits ou fabriqués dans tout autre pays étranger.

De même, aucune prohibition d'importation ne sera établie dans les territoires de l'une des Hautes Parties Contractantes sur un article quelconque produit ou fabriqué dans les territoires de l'autre, de quelque endroit qu'il vienne, à moins que cette prohibition ne soit appliquée en même temps à l'importation des articles similaires produits ou fabriqués dans tout autre pays. Cette dernière disposition n'est pas applicable aux prohibitions sanitaires ou autres provenant de la nécessité de protéger la sécurité des personnes, ainsi que la conservation du bétail et des plantes utiles à l'agriculture.

VI. Il ne sera imposé dans les territoires de chacune des Hautes Parties Contractantes, à l'exportation d'un article quelconque à destination des territoires de l'autre, aucun droit ou charge autre ou plus élevé que ceux qui sont ou seront payables à l'exportation des articles similaires à destination d'un autre pays étranger quel qu'il soit; de même, aucune prohibition ne sera imposée à l'exportation d'aucun article des territoires de l'une des Parties Contractantes à destination des territoires de l'autre

sans que cette prohibition soit également étendue à l'exportation des articles similaires à destination de tout autre pays.

VII. Les sujets de chacune des Hautes Parties Contractantes jouiront dans les territoires de l'autre de l'exemption de tous droits de transit, et d'une parfaite égalité de traitement avec les nationaux pour tout ce qui concerne le magasinage, les primes, les facilités, et les drawbacks.

VIII. Les objets passibles d'un droit d'entrée qui sont importés comme échantillons par des marchands, des industriels, ou des commis-voyageurs seront, de part et d'autre, admis en franchise de droits d'entrée et de sortie à la condition que ces objets soient réexportés, sans avoir été vendus, dans le délai fixé par les lois du pays respectif et sous réserve de l'accomplissement des formalités de douane pour en assurer la réexportation ou la réintégration en entrepôt. La réexportation des échantillons devra être garantie dans les territoires des Hautes Parties Contractantes immédiatement au premier lieu d'entrée, soit par dépôt du montant des droits de douane respectifs, soit par cautionnement.

Seront de même exempts de part et d'autre des droits d'entrée les cartes d'échantillons, les échantillons en morceaux coupés de la pièce ou les échantillons représentant les marchandises, en tant qu'ils ne peuvent servir à aucun autre usage, même lorsqu'ils seront importés d'une manière autre que celle prévue dans l'alinéa précédent.

IX. S'il est prélevé dans les territoires de l'une des Hautes Parties Contractantes dans le pays entier ou dans une circonscription restreinte un droit interne, soit pour le compte de l'Etat, soit pour celui d'une commune ou d'une corporation, de la production, de la fabrication, ou de la consommation d'un article, l'article similaire qui serait importé des territoires de l'autre Partie Contractante ne pourra, dans ce pays ou dans cette circonscription, être grevé que du droit égal et non d'un droit plus élevé ni plus onéreux.

Il ne pourra être prélevé des droits internes quelconques dans le cas où les articles de même nature ne seraient pas produits ou fabriqués ou ne seraient pas frappés des mêmes droits dans ce pays ou dans cette circonscription.

X. Tous les articles qui sont ou pourront être légalement importés dans les ports du territoire de Sa Majesté l'Empereur du Japon sur des navires Japonais pourront, de même, être importés dans ces ports sur des navires Autrichiens ou Hongrois; dans ce cas, ces articles n'auront à payer aucuns droits ou charges, de quelque dénomination que ce soit, autres ou plus élevés que ceux imposés sur les mêmes articles importés par des navires Japonais. Réciproquement, tous les articles qui sont ou pourront être légalement importés dans les ports Autrichiens ou Hongrois sur des navires Autrichiens ou Hongrois pourront, de même, être importés dans ces ports sur des navires Japonais; dans ce cas, ces articles n'auront à payer aucuns droits ou charges, de quelque dénomination que ce soit, autres ou plus élevés que ceux imposés sur les mêmes articles importés par des navires

Autrichiens ou Hongrois. Cette égalité réciproque de traitement sera accordée indistinctement, soit que ces articles viennent directement des pays d'origine, soit qn'ils viennent de tout autre lieu.

De même, il y aura parfaite égalité de traitement relativement à l'exportation; ainsi, les mêmes droits d'exportation seront payés, et les mêmes primes et drawbacks seront accordés, dans les territoires de chacune des Hautes Parties Contractantes, sur l'exportation de tout article qui est ou pourra être légalement exporté, que cette exportation ait lieu sur des navires Japonais ou sur des navires Autrichiens ou Hongrois et quel que soit le lieu de destination, qu'il soit un des ports de chacune des Hautes Parties Contractantes ou un des ports d'une Puissance tierce.

XI. Aucun droit de tonnage de port, de pilotage, de phare, de quarantaine ou autres droits similaires ou analogues, de quelque nature ou sous quelque dénomination que ce soit, levés au nom ou au profit du Gouvernement, de fonctionnaires publics, de particuliers, de corporations ou d'établissements quelconques, qui ne seraient également et sous les mêmes conditions, en pareil cas, sur les navires nationaux ou sur les navires de la nation la plus favorisée, ne seront imposés dans les ports des territoires de chacune des Hautes Parties Contractantes sur les navires de l'autre. Cette égalité de traitement sera appliquée réciproquement aux navires respectifs, de quelque endroit qu'ils arrivent et quel que soit le lieu de destination.

XII. En ce qui concerne le placement des navires, leur chargement, leur déchargement dans les ports, bassins, docks, rades, havres, ou rivières des territoires des Hautes Parties Contractantes, il ne sera accordé aux navires nationaux aucun privilège ni aucune faveur qui ne le soit également aux navires de l'autre Partie; la volonté des Hautes Parties Contractantes étant que, sous ce rapport aussi, les navires respectifs soient traités sur le pied d'une parfaite égalité.

XIII. Il est fait exception aux dispositions du présent Traité pour le cabotage dans les territoires de l'une ou de l'autre des Hautes Parties Contractantes, dont le régime reste soumis aux lois, ordonnances, et règlements des pays respectifs. Il est entendu toutefois que les sujets Japonais daus la Monarchie Austro-Hongroise et les sujets Autrichiens ou Hongrois dans le territoire de Sa Majesté l'Empereur du Japon jouiront, pour tout ce qui concerne le cabotage, des droits et privilèges qui sont ou seront accordés par ces mêmes lois, ordonnances, et règlements aux sujets de tout autre pays.

Tout navire Japonais chargé à l'étranger d'une cargaison destinée en tout ou en partie à deux ou plusieurs ports de l'Autriche ou de la Hongrie, et tout navire Autrichien ou Hongrois chargé à l'étranger d'une cargaison destinée en tout ou en partie à deux ou plusieurs ports du territoire de Sa Majesté l'Empereur du Japon, pourra, en se conformant aux lois et aux règlements de douane du pays, décharger une partie de sa cargaison dans un port, et continuer son voyage pour l'autre ou les

autres ports de destination où le commerce étranger est admis, dans le but d'y décharger une autre partie ou le reste de sa cargaison d'origine.

Le Gouvernement Japonais concède en outre aux navires Autrichiens et Hongrois de continuer, comme par le passé, et pour toute la durée du présent Traité, à transporter des cargaisons entre les ports ouverts de l'Empire, à l'exception des ports d'Osaka, de Niigata, et d'Ebisu-Minato.

XIV. Tout vaisseau de guerre ou navire de commerce de l'une ou de l'autre des Hautes Parties Contractantes qui serait forcé, par le mauvais temps ou pour toute autre raison, de se réfugier dans un port de l'autre, aura la liberté de s'y faire réparer, de s'y pourvoir de tous les approvisionnements dont il aura besoin et de reprendre la mer, sans payer d'autres taxes que celles qui seraient acquittées en pareille circonstance par les navires nationaux. Dans le cas, cependant, où le capitaine d'un navire de commerce se trouverait dans la nécessité de vendre une partie de sa cargaison pour payer les frais, il sera obligé de se conformer aux règlements et tarifs du lieu où il aurait relâché.

S'il arrive qu'un vaisseau de guerre ou un navire de commerce de l'une des Hautes Parties Contractantes échoue ou fasse naufrage sur les côtes de l'autre, les autorités locales en informeront sans retard le Consul-Général, le Consul, le Vice-Consul, ou l'Agent Consulaire le plus voisin.

Toutes les opérations relatives au sauvetage des navires Japonais naufragés ou échoués dans les eaux territoriales de l'Autriche ou de la Hongrie auront lieu conformément aux lois, ordonnances, et règlements de l'Autriche et de la Hongrie, et, réciproquement, toutes les mesures de sauvetage relatives aux navires Autrichiens ou Hongrois naufragés ou échoués dans les eaux territoriales de Sa Majesté l'Empereur du Japon auront lieu conformément aux lois, ordonnances, et règlements du Japon.

Tous navires ou vaisseaux ainsi échoués ou naufragés, tous débris et accessoires, toutes fournitures leur appartenant, et tous effets et marchandises sauvés des dits navires ou vaisseaux, y compris ceux qui auraient été jetés à la mer ou les produits des dits objets, s'ils sont vendus, ainsi que tous papiers trouvés à bord de ces navires ou vaisseaux échoués ou naufragés, seront remis aux propriétaires ou à leurs représentants, quand ils les réclameront. Dans le cas où ces propriétaires ou représentants ne se trouveraient par sur les lieux, les dits produits ou objets seront remis aux Consuls-Généraux, Consuls, Vice-Consuls, ou Agents Consulaires respectifs, sur leur réclamation, dans le délai fixé par les lois du pays; et ces officiers Consulaires, propriétaires ou représentants payeront seulement les dépenses occasionnées pour la conservation des dits objets, ainsi que les frais de sauvetage ou autres dépenses auxquels seraient soumis, en cas de naufrage, les navires nationaux.

Les effets et marchandises sauvés du naufrage seront exempts de tous droits de douane, à moins qu'ils n'entrent dans la consommation intérieure, auquel cas ils payeront les droits ordinaires.

Dans le cas où un navire appartenant aux sujets de l'une des Hautes Parties Contractantes ferait naufrage ou échouerait sur les territoires de

l'autre, les Consuls-Généraux, Consuls, Vice-Consuls, ou Agents Consulaires respectifs seront autorisés, en l'absence du propriétaire, capitaine, ou autre représentant du propriétaire, à prêter leur appui officiel pour procurer toute l'assistance nécessaire aux sujets des Etats respectifs. Il en sera de même dans le cas où le propriétaire, capitaine, ou autre représentant serait présent, et demanderait une telle assistance.

XV. Tous les navires qui, conformément aux lois Japonaises, sont considérés comme navires Japonais, et tous les navires qui, conformément aux lois Autrichiennes ou Hongroises, sont considérés comme navires Autrichiens ou Hongrois, seront respectivement considérés comme navires Japonais et Autrichiens ou Hongrois pour l'application du présent Traité.

XVI. Si un marin déserte d'un vaisseau de guerre ou d'un navire de commerce appartenant à l'une ou à l'autre des Hautes Parties Contractantes sur les territoires de l'autre, les autorités locales seront tenues de prêter toute assistance en leur pouvoir pour l'arrestation et la remise de ce déserteur, sur la demande qui leur sera adressée par le Consul du pays auquel appartient le navire ou vaisseau du déserteur ou par le représentant du dit Consul.

Il est entendu que cette stipulation ne s'appliquera pas aux sujets du pays où la désertion a eu lieu.

XVII. Les Hautes Parties Contractantes conviennent que, dans toutes les matières relatives au commerce et à la navigation, tout privilège, faveur, ou immunité quelconque que l'une d'elles a déjà accordé ou accorderait à l'avenir au Gouvernement, aux navires, ou aux sujets de tout autre Etat, seront étendus immédiatement et sans condition à l'autre Partie Contractante; leur intention étant que, pour ce qui concerne le commerce et la navigation, les Hautes Parties Contractantes jouissent, sous tous les rapports, du traitement de la nation la plus favorisée.

XVIII. Les sujets de chacune des Hautes Parties Contractantes jouiront, sur les territoires de l'autre, de la même protection que les nationaux relativement aux patentes, aux dessins et modèles, aux marques de fabrique ou de commerce, aux raisons sociales et aux noms, en remplissant les formalités prescrites par la loi.

XIX. Chacune des Hautes Parties Contractantes pourra nommer des Consuls-Généraux, Consuls, Vice-Consuls, Pro-Consuls, et Agents Consulaires dans tous les ports, villes, et places de l'autre Partie, sauf dans les localités où il y aurait inconvénient à admettre de tels officiers Consulaires.

Cette exception ne sera cependant pas faite à l'égard de l'une des Parties Contractantes, sans l'être également à l'égard de toutes les autres Puissances.

Les Consuls-Généraux, Consuls, Vice-Consuls, Pro-Consuls, et Agents Consulaires exerceront toutes leurs fonctions et jouiront de tous les privilèges, exemptions, et immunités qui sont ou seront accordés aux officiers Consulaires de la nation la plus favorisée.

XX. Les Hautes Parties Contractantes sont convenues de ce qui suit:

Les divers quartiers étrangers qui existent au Japon seront incorporés aux communes respectives Japonaises et feront dès lors partie du système municipal du Japon.

Les autorités Japonaises compétentes assumeront en conséquence toutes les obligations municipales qui résultent de ce nouvel état de choses, et les fonds et biens municipaux qui pourraient appartenir à ces quartiers seront, de plein droit, transférés aux dites autorités Japonaises.

Lorsque les changements ci-dessus indiqués auront été effectués, les baux à perpétuité, en vertu desquels les étrangers possèdent actuellement des propriétés dans les dits quartiers, serons confirmés, et les propriétés de cette nature ne donneront lieu à aucuns impôts, taxes, charges, contributions au conditions quelconques autres que ceux expressément stipulés dans les baux en question. Il est entendu toutefois qu'aux autorités Consulaires dont il y est fait mention seront substituées les autorités Japonaises.

Les droits de possession sur les dits biens fonciers pourront être librement aliénés à l'avenir par leurs possesseurs à des indigènes ou étrangers, sans qu'ils soient tenus de demander, comme à présent, pour certains cas, l'approbation des autorités Consulaires ou Japonaises.

Les terrains que le Gouvernement Japonais aurait concédés exempts de rentes, vu l'usage public auquel ils étaient affectés, resteront, sous la réserve des droits de la souveraineté territoriale, affranchis d'une manière permanente de tous impôts, taxes, et charges, et ils ne seront point détournés de l'usage auquel ils étaient primitivement destinés.

XXI. Les dispositions du présent Traité sont applicables aux pays qui appartiennent à présent ou appartiendront à l'avenir au territoire douanier de l'une des Hautes Parties Contractantes.

XXII. A dater de la mise en vigueur du présent Traité dans toutes ses parties, seront abrogés le Traité du 14e jour du 9e mois de la 2e année de Meiji, correspondant au 18 octobre 1869 et tous les Arrangements et Conventions couclus entre les Hautes Parties Contractantes existant antérieurement à cette date. En conséquence, la juridiction exercée par les Tribunaux Consulaires Austro-Hongrois au Japon, et les privilèges, exemptions, et immunités exceptionnels dont les sujets Autrichiens ou Hongrois jouissaient en matière juridictionnelle, seront supprimés de plein droit et sans qu'il soit besoin de notification, du jour de la mise en vigueur du présent du Traité; et les Autrichiens et les Hongrois seront dès lors soumis à la juridiction des Tribunaux Japonais.

XXIII. Le présent Traité, à l'exception de l'Article XVIII, n'entrera en vigueur qu'une année après que le Gouvernement de Sa Majesté l'Empereur du Japon aura notifié à la Monarchie Austro-Hongroise son intention de le voir mis à exécution, mais en aucun cas avant le 17 juillet 1899. Le présent Traité restera obligatoire pendant une période de douze ans à partir du jour où il aura été mis à exécution.

Chacune des Hautes Parties Contractantes aura le droit, à un moment quelconque après que onze annés se seront écoulées depuis l'entrée en vigueur du présent Traité, de notifer à l'autre Partie son intention d'y mettre fin, et à l'expiration du 12e moi qui suivra cette notification le Traité cessera et expirera entièrement.

L'Article XVIII du présent Traité sera mis en vigueur au moment de l'échange des ratifications du dit Traité et restera valable, à moins que les Hautes Parties Contractantes ne conviennent pas d'une disposition contraire, jusqu'à ce que les autres Articles du Traité cesseront d'être obligatoires.

Toutefois, l'alinéa 1 de l'Article V du Traité pourra être dénoncé à toute époque par l'Autriche-Hongrie, et dans ce cas la dite disposition de cet Article cessera d'être en vigueur douze mois après sa dénonciation.

XXIV. Le présent Traité sera ratifié par les Hautes Parties Contractantes, et les ratifications en seront échangées à Vienne ou à Tôkiô aussitôt que faire se pourra.

En foi de quoi les Plénipotentiaires l'ont signé et l'ont revêtu de leurs cachets respectifs.

Fait en double expédition à Vienne, le 5e jour du 12e mois de la 30e année de Meiji, correspondant au 5 décembre 1897.

(L.S.) *K. Takahira.*
(L.S.) *Goluchowski.*

Protocole Final.

Au moment de procéder à la signature du Traité de Commerce et de Navigation conclu en date de ce jour, les Plénipotentiaires soussignés sont convenus des dispositions suivantes:

1. Ad Article I du Traité.

Le Gouvernement Japonais consent, en attendant l'ouverture complète du pays aux sujets Autrichiens et Hongrois, d'étendre le système existant des passeports de façon à permettre aux dits sujets, sur la production d'un certificat favorable émanant de la Légation Austro-Hongroise à Tôkiô ou de l'un quelconque des Consulats Austro-Hongrois dans les ports Japonais ouverts, d'obtenir sur leur demande, du Département Impérial des Affaires Étrangères à Tôkiô ou des autorités principales de la Préfecture dans laquelle est situé un port ouvert, des passeports valables pour toute période n'excédant pas douze mois. Il est bien entendu que, sous cette réserve, les lois et règlements existants et applicables aux sujets Autrichiens ou Hongrois qui voyagent dans l'Empire du Japon sont maintenus.

2. Ad Articles I et III.

Il est convenu que les sujets des Hautes Parties Contractantes seront admis dans les territoires de l'autre, de la même manière que les nationaux, à l'acquisition et à la possession d'hypothèques sur des immeubles,

3. Ad Articles I et XIX.

En ce qui concerne la compétence des fonctionnaires Consulaires, ainsi que l'assistance judiciaire en matière civile et pénale et l'extradition des criminels, les Hautes Parties Contractantes s'accorderont, sous réserve de pleine réciprocité, le traitement de la nation la plus favorisée, aussi longtemps qu'elles n'auront pas réglé cette matière par un arrangement spécial.

4. Ad Article V.

Un mois après l'échange des ratifications du Traité de Commerce et de Navigation signé ce jour, le Tarif d'Importation actuellement appliqué aux articles importés de la Monarchie Austro-Hongroise au Japon cessera d'être en vigueur. A partir du même moment le nouveau Tarif de Douane Japonais, ainsi que les droits de faveur stipulés dans les autres Traités conclus entre le Japon et les Etats étrangers, seront applicables aux articles produits ou fabriqués en Autriche-Hongrie à leur importation au Japon, tout en maintenant le traitement de la nation la plus favorisée garanti par les stipulations de l'Article XX du Traité existant entre les Hautes Parties Contractantes, aussi longtemps que les dites stipulations resteront en vigueur, puis subséquemment des Articles V et XVII du Traité signé cejourd'hui.

Toutefois, il est entendu que les modifications qui seraient apportées ultérieurement au Tarif Douanier Japonais devront être publiées six mois avant leur application aux articles produits ou fabriqués dans la Monarchie Austro-Hongroise.

Rien de ce qui est contenu dans le Traité, dans ce Protocole, ou dans la Convention Additionnelle signée cejourd'hui ne pourra être tenu comme limitant ou déterminant le droit de l'Autriche-Hongrie et du Japon de restreindre ou de prohiber l'importation des drogues, médecines, aliments, ou breuvages falsifiés, d'imprimés, peintures, livres, cartes, lithographies, gravures indécentes ou obscènes, ou d'autres objets pouvant offrir quelque danger pour la sécurité ou la morale publique, d'articles fabriqués en violation des lois qui, en Autriche, en Hongrie, et au Japon, réglementent les brevets d'invention, les marques de fabrique ou la propriété littéraire. Ce droit réciproque s'étendra également aux prohibitions sanitaires ou autres provenant de la nécessité de protéger la santé des personnes, ainsi que la conservation du bétail et des plantes utiles à l'agriculture.

Il est convenu que, dans le cas où l'application du principe de la nation la plus favorisée en matière des droits de douane garanti par le Traité signé cejourd'hui et par le présent Protocole serait reconnue non satisfaisante dans la pratique, les Hautes Parties Contractantes s'entendront sur des droits de faveur applicables aux articles ayant un intérêt spécial pour chacune d'elles.

Tout en se réservant l'exécution ultérieure de cette clause, les Hautes Parties Contractantes sont convenues déjà actuellement d'une Convention Additionnelle signée cejourd'hui qui détermine jusqu'au 31 décembre, 1903, le régime d'importation applicable certains articles d'un pareil intérêt.

Sous tout autre rapport les dispositions du Traité actuel, ainsi que des Arrangements et Conventions subsidiairement conclus entre les Hautes Parties Contractantes, resteront obligatoires jusqu'à la mise en vigueur du Traité de Commerce et de Navigation signé cejourd'hui.

5. Ad Article XVIII.

Les Hautes Parties Contractantes se réservent de régler par une Convention spéciale la protection des patentes, dessins et modèles, et entameront en son temps les négociations nécessaires.

Le Gouvernement Japonais s'engage à adhérer, avant la cessation de la juridiction Consulaire Austro-Hongroise au Japon, à l'Union Internationale de Paris concernant la protection de la propriété industrielle.

6. Ad Article XXII.

Il est convenu que, malgré la cessation de la juridiction Consulaire Austro-Hongroise au Japon, amenée ipso facto par l'entrée en vigueur entière du Traité de Commerce et de Navigation signé cejourd'hui, cette juridiction sera maintenue par rapport à toutes les affaires déjà pendantes au moment de la mise en vigueur complète du Traité et restera obligatoire jusqu'à leur décision définitive.

Le présent Protocole sera considéré comme approuvé et sanctionné par les Hautes Parties Contractantes sans autre ratification spéeiale par le seul fait de l'échange des ratifications du Traité auquel il se rapporte.

Ce Protocole prendra fin en même temps que le dit Traité cessera d'être obligatoire.

En foi de quoi les Plénipotentiaires des Hautes Parties Contractantes ont signé le présent Protocole et l'ont revêtu du cachet de leurs armes.

Fait en double expédition à Vienne, le 5e jour du 12e mois de la 30e année de Meiji, correspondant au 5 décembre 1897.

(L. S.) *K. Takahira.*
(L. S.) *Goluchowski.*

Convention Additionnelle.

Les Soussignés, Envoyé Extraordinaire et Ministre Plénipotentiaire de Sa Majesté l'Empereur du Japon à Vienne, et Ministre des Affaires Étrangères de Sa Majesté l'Empereur d'Autriche, Roi de Bohême, &c., et Roi Apostolique de Hongrie, en vertu de la disposition du Protocole Final annexé au Traité de Commerce et de Navigation conclu cejourd'hui, sont convenus de ce qui suit:

Art. I. En même temps que le nouveau Tarif de Douane Japonais (alinéa 1 de la section 4 du Protocole Final ad Article V du Traité de Commerce et de Navigation ci-dessus mentionné) entrera en vigueur, les articles ci-après mentionnés, produits ou fabriqués dans la Monarchie

Austro-Hongroise, seront soumis à leur importation au Japon aux droits suivants:

Les ustensiles de cuisine ou vaisselles, ainsi que les autres ouvrages en tôle de fer, ou d'acier, émaillés, décorés ou non . . .	10 pour cent ad valorem.
Les lampes, parties et accessoires de lampes, en métal ou en verre	
Les meubles de toute sorte en bois courbé	
La bijouterie fausse	
Les boutons de toute sorte	
Les objets en verre, les cristaux, et la vitrification, excepté le verre à vitres	
La poudre insecticide	5 pour cent ad valorem.
Les chevaux	Exempts.

Les droits ad valorem seront calculés sur le prix réel des marchandises au lieu d'achat, de production, ou de fabrication, augmenté des frais de transport et d'assurance du dit lieu jusqu'au port de déchargement, ainsi que des frais de commission, s'il en existe.

II. A partir du jour où les articles de l'Autriche-Hongrie seront traités au Japon de la manière stipulée ci-dessus, les articles produits ou fabriqués dans l'Empire du Japon jouiront, à leur importation dans le territoire douanier Austro-Hongrois, du traitement de la nation la plus favorisée.

Les articles produits ou fabriqués au Japon ci-dessous mentionnés seront soumis, à leur importation dans le territoire douanier Austro-Hongrois, aux droits d'entrée suivants:

	Les 100 kilog. Florin en or.
Soie en cocons, déchets de soie, non filés	Exempts.
Soie dévidée ou filée, écrue	Exempte.
Bourre de soie (déchets de soie filés), écrue	Exempte.
Tissus de soie pure, unis	200 00
Tresses de paille (en forme de rubans de toute sorte), non combinées avec d'autres matières	2 00
Papier de tenture	18 00
Porcelaine	
Blanche	5 00
De couleur, lisérée, peinte, imprimée, dorée, argentée . . .	10 00
Cuivre brut, même vieux en morceaux, et débris	Exempt.

III. Dans le cas où, pendant la durée de la présente Convention, il serait accordé par le Japon à un tiers État pour les marchandises dénommées dans l'Article I de la présente Convention un traitement plus favorable, ce traitement profitera également, en vertu des dispositions contenues dans la section 4 ad Article V du Protocole Final annexé au Traité de Commerce et de Navigation signé cejourd'hui, aux marchandises similaires produites ou fabriquées dans la Monarchie Austro-Hongroise.

De même il est entendu que, dans le cas où l'Autriche-Hongrie accorderait pendant la durée de la présente Convention à un tiers État pour les marchandises dénommées dans l'Article II de la présente Convention des droits d'entrée plus réduits, ces droits seront appliqués également aux marchandises similaires produites ou fabriquées au Japon.

IV. La présente Convention entrera en vigueur le jour où le nouveau Tarif de Douane Japonais sera appliqué, et restera exécutoire jusqu'au 31 décembre 1903.

Dans le cas où l'Autriche-Hongrie aurait notifié, en vertu de la disposition contenue dans l'Article XXIII du Traité de Commerce et de Navigation signé cejourd'hui, son intention de faire cesser les effets de l'alinéa 1 de l'Article V du dit Traité, la présente Convention sera mise hors de vigueur douze mois après cette notification.

Elle sera considérée comme approuvée et sanctionnée par les Hautes Parties Contractantes sans autre ratification spéciale par le seul fait de l'échange des ratifications du Traité signé cejourd'hui.

En foi de quoi les Plénipotentiaires des Hautes Parties Contractantes ont signé la présente Convention et l'ont revêtue du cachet de leurs armes.

Fait à Vienne, en double expédition, le 5e jour du 12e mois de la 30e année de Meiji, correspondant au 5 décembre 1897.

(L. S.) *K. Takahira.*
(L. S.) *Goluchowski.*

Notes.

Au moment de procéder à la signature du Traité de Commerce et de Navigation conclu, en date de ce jour, entre l'Autriche-Hongrie et le Japon, le Soussigné, Ministre Impérial et Royal des Affaires Étrangères de l'Autriche-Hongrie, désirant mettre hors de doute plusieurs questions traitées dans le courant des négociations, déclare qu'il a signé le dit Traité dans les suppositions suivantes; savoir que:

1. Bien que la législation Japonaise actuellement en vigueur n'admette pas encore les sujets étrangers à l'acquisition de la propriété d'un immeuble au Japon, cette disposition ne déroge pas à la faculté des sujets Autrichiens ou Hongrois d'acquérir, dans les buts visés par les Articles I et III du Traité, aux mêmes conditions que les nationaux et en conformité des lois régissant cette matière, le droit d'emphytéose, de superficie et tout autre droit réel sur des immeubles, et d'assurer aux droits personnels résultant des contrats de bail et de fermage le caractère d'un droit réel par l'inscription dans les registres y affectés;

2. Que le Gouvernement Impérial du Japon prendra en considération de faire construire, selon l'exigence du commerce, des magasins et des entrepôts réels dans toutes les places du pays qui ont une importance spéciale pour le commerce;

3. Que, l'État Japonais restant propriétaire des terrains concédés pour l'usage des quartiers étrangers visés dans l'Article XX du Traité, leurs possesseurs ou leurs ayants-cause n'auront à payer pour ces immeubles, à l'exception de la rente qu'ils ont à verser en vertu du contrat, aucune taxe ou imposition;

4. Que les droits légalement acquis avant la mise en vigueur ou pendant la durée du Traité par les sujets de l'une des Hautes Parties

Contractantes dans les territoires de l'autre resteront valables sans qu'une modification y puisse être apportée après l'expiration du Traité.

Le Soussigné, en priant M. l'Envoyé Extraordinaire et Ministre Plénipotentiaire de Sa Majesté l'Empereur du Japon, M. Takahira, de vouloir bien prendre acte de ce qui précède, a l'honneur d'ajouter qu'il attacherait du prix à être informé sur l'époque que choisira le Gouvernement Impérial Japonais pour la notification prévue dans l'alinéa 1 de l'Article XXIII du Traité.

Le Soussigné saisit, &c.,

(L. S.) *Goluchowski.*

Vienne, le 5 décembre 1897.

Le Soussigné, Envoyé Extraordinaire et Ministre Plénipotentiaire de Sa Majesté l'Empereur du Japon, a l'honneur d'informer son Excellence M. le Comte Goluchowski, Ministre Impérial et Royal des Affaires Étrangères de l'Autriche-Hongrie, en réponse à sa note en date d'aujourd'hui, que les suppositions y énoncées sous les Nos. 1—4, et qui ont pour objet acquisition des droits réels sur les biens-fonds, l'établissement de magasins et d'entrepôts réels, l'exemption des terrains dans les concession étrangères, et la conservation des droits acquis à l'expiration du Traité, sont exactes en tous les points.

Pour ce qui concerne la demande de son Excellence M. le Comte Goluchowski, énoncée à la fin de la dite note, le Soussigné a l'honneur de faire la communication suivante:

Le Gouvernement Impérial Japonais, jugeant désirable que les codes de l'Empire du Japon soient effectivement en vigueur au moment où le Traité existant entre le Japon et l'Autriche-Hongrie cessera d'être obligatoire, s'engage à ne pas faire la notification prévue dans le premier alinéa de l'Article XXIII du Traité signé cejourd'hui avant que les parties des dits codes qui sont soumises à un nouvel examen ne soient entièrement mises en vigueur.

Le Soussigné saisit, &c.,

(L. S.) *K. Takahira.*

Vienne, le 5 decembre 1897.

45.

JAPON, SIAM.

Traité destiné à faciliter les relations commerciales; signé á Bangkok, le 25 février 1898*)

State Papers V. XC.

His Majesty the Emperor of Japan, and His Majesty the King of Siam, being equally animated by a desire to promote the relations of friendship, commerce, and navigation which happily exist between their respective States and subjects, have resolved to conclude a Treaty for that purpose, and have named as their Plenipotentiaries, that is to say:

His Majesty the Emperor of Japan, Inagaki Manjiro, Shogoi, His Majesty's Minister-Resident at the Court of His Majesty the King of Siam; and

His Majesty the King of Siam, His Royal Highness Prince Krom Luang Devawongse Varoprakar, Knight of the Order of Chakrakri, First Class of the Order of Rising Sun, &c., Minister for Foreign Affairs of His Majesty the King of Siam;

Who, after having communicated to each other their respective full powers, found to be in good and due form, have agreed upon and concluded the following Articles:

Art. I. There shall be constant peace and perpetual friendship between Japan and Siam, and the subjects of each of the High Contracting Parties shall enjoy in the dominions and possessions of the other full and entire protection for their persons and property, according to established law of the country.

II. It shall be free to each of the Contracting Parties to appoint Consuls-General, Consuls, Vice-Consuls, and Consular Agents to reside in the towns and ports of the dominions and possessions of the other, where similar officers of other Powers are permitted to reside. Such Consuls-General, Consuls, Vice-Consuls, and Consular Agents, however, shall not enter upon their functions until after they shall have been approved and admitted in the usual form by the Government to which they are sent. They shall enjoy all the honours, privileges, exemptions, and immunities of every kind which are or may be granted to Consuls of the most favoured nation.

III. The subjects of each of the High Contracting Parties may enter, remain and reside in any part of the dominions and possessions of the other, where the subjects and citizens of the nation most favoured

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*) Les ratifications ont été échangées à Bangkok, le 31 mai 1898.

in those respects are permitted to enter, remain, and reside. They may there hire and occupy houses, manufactories, shops, and warehouses, and they may there engage in trade by wholesale and retail in all kinds of produce, manufactures, and merchandize, paying no other or higher taxes, imposts, charges, or exactions of any kind than are now or may hereafter be paid by the subjects or citizens of the most favoured nation.

In all that relates to travel, trade, and residence, to the acquisition, possession, and disposal of property of all kinds, and to the right to engage in all kinds of business, occupation, and enterprise, the subjects of each of the Contracting Parties in the dominions and possessions of the other shall at all times enjoy the treatment accorded to the subjects or citizens of the most favoured nation.

IV. There shall be reciprocally full and entire freedom of commerce and navigation between the dominions and possessions of the two High Contracting Parties. The subjects of each of the Contracting Parties shall have liberty freely and securely to come and go with their ships and cargoes to and from all places, ports, and rivers in the dominions and possessions of the other which are now or may hereafter be opened to foreign commerce and navigation.

V. The subjects of each of the High Contracting Parties shall enjoy in the dominions and possessions of the other a perfect equality of treatment with the subjects or citizens of the most favoured nation in all that relates to transit duties, warehousing, bounties, facilities, the examination and appraisement of merchandize and drawbacks.

VI. No other or higher duties shall be imposed on the importation into the dominions and possessions of His Majesty the King of Siam of any article the produce or manufacture of the dominions and possessions of His Majesty the Emperor of Japan, from whatever place arriving, and no other or higher duties shall be imposed on the importation into the dominions and possessions of His Majesty the Emperor of Japan of any article the produce or manufacture of the dominions and possessions of His Majesty the King of Siam, from whatever place arriving, than on the like article produced or manufactured in any other foreign country; nor shall any prohibition be maintained or imposed on the importation of any article the produce or manufacture of the dominions and possessions of either of the High Contracting Parties into the dominions and possessions of the other, from whatever place arriving, which shall not equally extend to the importation of the like article being the produce or manufacture of any other country. This last provision is not applicable to the sanitary and other prohibitions occasioned by the necessity of protecting the safety of persons, or of cattle, or of plants useful to agriculture.

VII. No other or higher duties, taxes, or charges of any kind shall be imposed in the dominions and possessions of either of the High Contracting Parties in respect of any article exported to the dominions and possessions of the other than such as are or may be payable in respect of the like article exported to any other foreign country; nor shall any

prohibition be imposed on the exportation of any article from the dominions and possessions of either of the two Contracting Parties to the dominions and possessions of the other which shall not equally extend to the exportation of the like article to any other country.

VIII. All articles which are or may be legally imported into the ports of the dominions and possessions of His Majesty the Emperor of Japan in Japanese vessels or vessels of the most favoured nation may likewise be imported into those ports in Siamese vessels without being liable to any other or higher duties or charges of whatever demomination than if such articles were imported in Japanese vessels or vessels of the most favoured nation; and reciprocally all articles which are or may be legally imported into the ports of the dominions and possessions of His Majesty the King of Siam in Siamese vessels or in vessels of the most favoured nation may likewise be imported into those ports in Japanese vessels without being liable to any other or higher duties or charges of whatever denomination than if such articles were imported in Siamese vessels or vessels of the most favoured nation. Such reciprocal equality of treatment shall take effect without distinction, whether such articles come directly from the place origin or from any other place.

In the same manner there shall be perfect equality of treatment in regard to exportation, so that the same internal and export duties shall be paid, and the same bounties and drawbacks allowed, in the dominions and possessions of either of the High Contracting Parties on the exportation of any article which is or may be legally exported therefrom, whether such exportation shall take place in Japanese or Siamese vessels or in vessels of a third Power, and whatever may be the place of destination, whether a port of either of the Contracting Parties or of any third Power.

IX. No other or higher duties or charges on account of tonnage, light, or harbour dues, pilotage, quarantine, salvage, in case of damage or shipwreck, or any other local charges shall be imposed in any ports of Japan on Siamese vessels, nor in any of the ports of Siam on Japanese vessels than are now or may hereafter be payable in like case in the same ports on national vessels in general or vessels of the most favoured nation. Such equality of treatment shall apply reciprocally to the respective vessels, from whatever port or place they may arrive, and whatever may be their place of destination.

X. In all that concerns the entering, clearing, stationing, loading, and unloading of vessels in the ports, basins, docks, roadsteads, harbours, or rivers of the dominions and possessions of the two countries no privilege shall be granted by one country to national vessels or vessels of any third Power which shall not be equally granted in similar cases to vessels of the other country.

XI. Any ship of war or merchant-vessel of either of the High Contracting Parties which may be compelled, by stress of weather or by reason of any other distress, to take shelter in a port of the other shall be at liberty to refit therein, to procure all necessary supplies, and to

put to sea again without paying any duties other than such as would be payable by national vessels. In case, however, the master of a merchant-vessel should be under the necessity of disposing of a part of his cargo in order to defray the expenses, he shall be bound to conform to the regulations and tariffs of the place to which he may have come.

If any ship of war or merchant-vessel of one of the Contracting Parties should run aground or be wrecked upon the coasts of the other, such ship or vessel, and all parts thereof, and all furnitures and appurtenances belonging thereunto, and all goods and merchandize saved therefrom, including those which may have been cast into the sea, or the proceeds thereof, if sold, as well as all papers found on board such stranded or wrecked ship or vessel, shall be given up to the owners, master, or their agents when claimed by them. If such owners, master, or agents are not on the spot, the same shall be delivered to the respective Consuls-General, Consuls, Vice-Consuls, or Consular Agents upon being claimed by them within the period fixed by the laws of the country, and such Consular officers, owners, master, or agents shall pay only the expenses incurred in the preservation of the property, together with the salvage or other expenses which would have been payable in the case of a wreck of a national vessel.

The goods and merchandize saved from the wreck shall be exempt from all the duties of the Customs unless cleared for consumption, in which case they shall pay the ordinary duties.

In the case of a ship or vessel belonging to the subjects of either of the Contracting Parties being driven in by stress of weather, run aground, or wrecked in the dominions and possessions of the other, the respective Consuls-General, Consuls, Vice-Consuls, and Consular Agents shall, if the owner or master, or other agent of the owner, is not present, or is present, but requires it, be authorized to interpose in order to afford the necessary assistance to the subjects of the respective States.

XII. The vessels of war of each of the High Contracting Parties may enter, remain, and make repairs in those ports and places of the other to which the vessels of war of the most favoured nation are accorded access; they shall there submit to the same regulations and enjoy the same honours, advantages, privileges, and exemptions as are now or may hereafter be conceded to vessels of war of the most favoured nation.

XIII. The High Contracting Parties agree that, in all that concerns commerce, industry, and navigation, any privilege, favour, or immunity which either Contracting Party has actually granted or may hereafter grant to the Government, subjects, citizens, ships, or merchandize of any other State shall be extended immediately and unconditionally to the Government, subjects, ships, or merchandize of the other Contracting Party, it being their intention that the trade, industry, and navigation of each country shall be placed in all respects by the other on the footing of the most favoured nation.

XIV. The present Treaty shall come into force immediately after the exchange of ratifications, and shall remain in force for ten years, and thereafter until the expiration of a year from the day on which one or the other of the Contracting Parties shall have repudiated it.

XV. The present Treaty is signed in duplicate in the Japanese, Siamese, and English languages, and in case there should be found any discrepancy between the Japanese and Siamese texts, such discrepancy shall be decided in conformity with the English text.

XVI. The present Treaty shall be ratified, and the ratifications thereof shall be exchanged at Bangkok as soon as possible.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seal of their arms.

Done at Bangkok, in sextuplicate, this 25th day of the second month of the 31st year of Meiji, corresponding to the 25th day of February of the 116th year of Ratanakosindr Sok, and the 1898th year of the Christian era.

(L. S.) *Inagaki Manjiro.*
(L. S.) *Devawongse Varoprakar.*

Protocol.

At the moment of proceeding this day to the signature of the Treaty of Friendship, Commerce, and Navigation between Japan and Siam the Plenipotentiaries of the two High Contracting Parties have declared as follows:

1. The Siamese Government consent that Japanese Consular officers shall exercise jurisdiction over Japanese subjects in Siam until the judicial reforms of Siam shall have been completed, that is, until a Criminal Code, a Code of Criminal Procedure, a Civil Code (with exception of Law of Marriage and Succession), a Code of Civil Procedure, and a Law of Constitution of the Courts of Justice will come into force.

2. The Japanese Government accept as binding upon Japanese subjects and vessels resorting to Siam the Trade Regulations and Customs Tariffs now in force in Siam in respect of the subjects, citizens, and vessels of the other Powers having Treaties with Siam.

Such Regulations and Tariffs shall be subject to revision at any time upon twelve months' previous notice, on demand of either Japan or Siam.

All fines and penalties imposed for infractions of the said Regulations, or of the Treaty signed this day, shall be paid to the Siamese Government.

3. Any controversies which may arise respecting the interpretation or the execution of the Treaty signed this day, or the consequences of any violation thereof, shall be submitted, when the means of settling them directly by amicable agreement are exhausted, to the decision of Commissions of Arbitration, and that the result of such arbitration shall be binding upon both Governments.

The members of such Commissions shall be selected by the two Governments by common consent, failing which each of the Parties shall nominate an Arbitrator or an equal number of Arbitrators, and the Arbitrators thus appointed shall select an Umpire.

The procedure of the arbitration shall in each case be determined by the Contracting Parties, failing which the Commission of Arbitration shall be itself entitled to determine it beforehand.

The undersigned Plenipotentiaries have agreed that this Protocol shall be submitted to the High Contracting Parties at the same time as the Treaty, and that when the Treaty is ratified, the agreements contained in this Protocol shall also equally be considered as approved, without the necessity of a further formal ratification.

In witness whereof the respective Plenipotentiaries have signed the present Protocol, and have affixed thereto their seals.

Done at Bangkok, in sextuplicate, this 25th day of the second month of the 31st year of Meiji, corresponding to the 25th day of February of the 116th year of Ratanakosindr Sok, and the 1898th year of the Christian era.

(L. S.) *Devawongse Varoprakar.*
(L. S.) *Inagaki Manjiro.*

Notes. Traffic of Spirituous Liquors in Siam.

Japanese Legation, Bangkok,
February 25, 1898.

M. le Ministre,

I have the honour to communicate to your Royal Highness the following proposals, which the Imperial Government hope will be accepted by the Royal Government: that as the Japanese Government is ready to give their adhesion to the arrangements concluded by Siam with the several Treaty Powers in 1883, 1884, and 1885 for the regulation of the traffic in spirituous liquors, and also to agree to the Law of 1887, designed to carry those arrangements into full effect, the Siamese Government on their part will engage that the Japanese subjects shall at all times enjoy the same rights and privileges in regard to the importation and sale of spirits, beer, wines, and spirituous liquors in Siam as the subjects or citizens of the most favoured nation; that spirits, beer, wines, and spirituous liquors imported into Siam from Japan shall enjoy the same privileges in all respects as similar articles imported from the most favoured nation; and that the exception contained in section 4 of said Law in favour of wine and beer made in Europe and in the United States of America shall equally apply to wine and beer made in Japan.

I avail, &c.,
Manjiro Inagaki.

To His Royal Highness
Krom Luang Devawongse Varoprakar,
H. R. S. M.'s Minister for Foreign Affairs.

Foreign Office, Bangkok,
February 25, 1898.

M. le Ministre,

I have the honour to acknowledge the receipt of your note of this day's date relating to the traffic of spirituous liquors in Siam, and I am happy to state that His Majesty's Government accept the proposals of the Imperial Government of Japan as contained in your note under reply.

I avail, &c.,
Devawongse Varoprakar,
Minister for Foreign Affairs

Manjiro Inagaki, Esq.,
Minister Resident for Japan.

46.

ALLEMAGNE, RUSSIE.

Déclaration concernant le Jaugeage de bâtiments de Commerce; signée à Saint-Pétersburg, le $\frac{24 \text{ juin}}{6 \text{ juillet}}$ 1898.

Par suite des modifications apportées en Allemagne le 1er et le 26 mars 1895, au système de jaugeage des bâtiments de commerce, les Soussignés, dûment autorisés par leurs Gouvernements, sont convenus que la Déclaration échangée le 14/26 décembre 1881,*) sera rapportée et remplacée par une nouvelle Déclaration dont la teneur est comme suit:

Art. Ier. Les navires Russes (y compris ceux du Grand-Duché de Finlande) jaugés d'après la méthode Moorsom seront admis dans les ports de l'Empire d'Allemagne et de ses Colonies, ainsi que les navires Allemands, dont le jaugeage aura été fait selon le même système, seront admis dans les ports de l'Empire de Russie, sans être assujettis, pour le payement des droits de navigation, à aucune nouvelle opération de jaugeage.

Ces droits de navigation seront calculés d'après le tonnage net.

II. Les dispositions du Règlement Russe ne s'accordant pas entièrement avec les dispositions Allemandes relativement au mode suivi pour déterminer les espaces destinés à l'équipage des navires, à la machine, aux chaudières et aux soutes à charbon des bateaux à vapeur, les déductions à cet égard seront pour les navires Allemands abordant dans un port Russe calculées d'après les chiffres indiqués dans les certificats de jauge en conformité du Règlement Russe sanctionné le $\frac{20 \text{ décembre } 1879}{1 \text{ janvier } 1880}$, sans remesurage du navire, pourvu que les certificats soient délivrés à partir du 1er juillet 1895.

Cette mesure sera applicable dans les ports Allemands aux navires Russes y abordant, si les capitaines des dits navires en expriment le désir, et, dans ce cas, on se conformera aux dispositions du Règlement Allemand.

*) V. **N. R. G.** 2e s. T. IX. 428.

III. Les Règlements Finlandais et Allemand sur le jaugeage des navires étant en substance les mêmes, les certificats de jauge Allemands, délivrés à partir du 1er juillet 1895 seront reconnus dans le Grand-Duché de Finlande sans aucune opération de jauge ou autre formalité quelconque, et le tonnage net de tous les navires Finlandais ou Allemands, inscrit sur les papiers de bord, sauf les dispositions contenues dans les deux alinéas suivants, sera reconnu dans les ports respectifs comme le tonnage actuel des bâtiments sans qu'ils soient assujettis à un remesurage.

Toutefois, prenant en considération que les dispositions du Règlement Finlandais ne s'accordent pas entièrement avec les dispositions Allemandes relativement au mode suivi pour déterminer les espaces destinés aux logements du capitaine et de l'équipage, les déductions à cet égard seront pour les navires Finlandais abordant dans un port Allemand calculées d'après les chiffres indiqués dans les certificats de jauge en conformité du Règlement Allemand, sans remesurage du navire.

Quant aux navires Allemands abordant dans les ports Finlandais, les déductions pour les espaces ci-dessus mentionnés seront calculées d'après les chiffres indiqués dans les certificats de jauge en conformité du Réglement Finlandais sans remesurage du navire.

IV. Les dispositions de l'Article 2, alinéa 1, seront applicables aux certificats de jauge réguliers des navires Allemands datés du 1er janvier 1889 au 30 juin 1895 sous la réserve que le Règlement Russe sera applicable seulement au calcul des déductions pour les espaces destinés à l'équipage, tandis que les déductionss pour les espaces destinés à la machine, aux chaudières et aux soutes à charbon sont déterminées conformément au certificat de jauge Allemands. Quant aux certificats de jauge Allemands délivrés avant le 1er janvier 1889 le tonnage net y indiqué sera reconnu sans réserve.

Les dispositions de l'Article 3 seront également applicables aux cerificats de jauge spéciaux des bateaux à vapeur Allemands datés du 1er janvier 1889 au 30 juin 1895 et délivrés d'après le formulaire (D) conformément au § 17 du Règlement de jauge Allemand du 20 juin 1888.

V. La présente Déclaration entrera en vigueur deux mois à partir du jour de sa signature.

En foi de quoi les Soussignés ont signé la présente Déclaration et l'ont munie du sceau de leurs armes.

Fait en double à Saint-Pétersbourg, le $\frac{24 \text{ juin}}{6 \text{ juillet}}$ 1898.

(L. S.) *Comte Mouravieff.*
(L. S.) *Radolin.*

47.

PAYS-BAS, ROUMANIE.

Convention de Commerce; signée à La Haye, le 3/15 mars 1899.*)

Sa Majesté la Reine des Pays-Bas et Sa Majesté le Roi de Roumanie, animés du même désir de consolider les liens d'amitié et de développer les rapports commerciaux entre les deux États, ont résolu de conclure à cet effet une Convention et ont nommé pour leurs Plénipotentiaires, savoir:

Sa Majesté la Reine des Pays-Bas, M. Willem Hendrik de Beaufort, Chevalier de l'Ordre du Lion Néerlandais, &c., son Ministre des Affaires Étrangères:

Sa Majesté le Roi de Roumanie, M. Jean N. Papiniu, Commandeur des Ordres de l'Étoile et de la Couronne de Roumanie, &c., son Envoyé Extraordinaire et Ministre Plénipotentiaire près la Cour Royale des Pays-Bas;

Lesquels, après s'être communiqué leurs pleins-pouvoirs, trouvés en bonne et due forme, sont convenus des stipulations suivantes:

Art. I. Les ressortissants, les navires et les marchandises produits du sol et de l'industrie de chacune des Hautes Parties Contractantes jouiront dans les territoires de l'autre des privilèges, immunités ou avantages quelconques accordés à la nation étrangère la plus favorisée.

Il est entendu toutefois que la stipulation qui précède ne déroge en rien aux lois, ordonnances, et règlements spéciaux en matière de commerce, d'industrie, de police, et de sûreté générale en vigueur dans chacun des deux pays et applicables à tous les étrangers en général.

II. Tous les objets produits du sol et de l'industrie des Pays-Bas qui seront importés en Roumanie, et tous les objets produits du sol et de l'industrie de la Roumanie qui seront importés dans les Pays-Bas, destinés soit à la consommation, soit à l'entreposage, soit à la réexportation, soit au transit, seront soumis pendant la durée de cette Convention au même traitement et nommément ne seront passibles de droits ni plus élevés ni autres que les produits ou les marchandises de la nation étrangère la plus favorisée.

A l'exportation pour les Pays-Bas il ne sera perçu en Roumanie et à l'exportation pour la Roumanie il ne sera perçu dans les Pays-Bas des droits de sortie autres ni plus élevés qu'à l'exportation des mêmes objets pour le pays le plus favorisé à cet égard.

Chacune des Hautes Parties Contractantes s'engage à faire profiter l'autre immédiatement de toute faveur, de tous privilèges ou abaissements

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*) L'échange des ratifications a eu lieu à La Haye, le 22 décembre 1899.

de droits qu'elle a déjà accordés ou pourrait accorder par la suite sous les rapports mentionnés, à une tierce Puissance par des Conventions similaires.

Les marchandises de toute nature provenant du territoire de l'une des Hautes Parties Contractantes ou y alllant seront exemptes dans le territoire de l'autre de tous droits de transit.

Le traitement de la nation étrangère la plus favorisée est réciproquement garanti à chacune des Hautes Parties Contractantes pour tout ce qui concerne le transit.

III. Les ressortissants de chacune des deux Hautes Parties Contractantes seront exempts dans le territoire de l'autre de tout service militaire et de toutes réquisitions extraordinaires qui seraient établies par suite de circonstances exceptionnelles.

Sont toutefois exceptées les charges qui sont attachées à la possession d'un bien fonds, ainsi que les prestations et réquisitions militaires auxquelles tous les nationaux peuvent être appelés à se soumette comme propriétaires, fermiers, ou locataires d'immeubles.

IV. Le traitement de la nation étrangère la plus favorisée accordé par la présente Convention s'appliquera également aux Colonies et possessions Néerlandaises.

Toutefois, il est entendu que par cette application il ne sera pas dérogé aux distinctions légales entre les personnes d'origine occidentale et orientale, ni à la franchise des droits d'entrée et aux privilèges accordés quant au cabotage aux nations Asiatiques de l'Archipel Oriental.

V. Les deux Hautes Parties Contractantes se réservent respectivement la faculté de dénoncer à toute époque la présente Convention en se prévenant un an à l'avance.

VI. Toute question ou tout différend sur l'interprétation, l'application ou l'exécution de la présente Convention, s'il ne peut être réglé à l'amiable, sera soumis à la décision d'une Commission de trois Arbitres. Chacune des deux Hautes Parties Contractantes désignera un Arbitre et ces deux Arbitres nommeront le troisième.

S'ils ne peuvent s'entendre sur ce choix, le troisième Arbitre sera nommé par le Gouvernement d'un tiers État désigné par les deux Hautes Parties Contractantes.

VII. La présente Convention sera ratifiée, et les ratifications seront échangées à la Haye le plus tôt possible dès que les formalités prescrites par les lois constitutionnelles des deux Hautes Parties Contractantes auront été accomplies.

En foi de quoi les Plénipotentiaires respectifs ont signé la présente Convention et y ont apposé leurs cachets.

Fait, en double, à la Haye, le $\frac{3}{15}$ mars 1899.

(L. S.) *W. H. de Beaufort.*
(L. S.) *J. N. Papiniu.*

48.

SERBIE, TURQUIE.

Convention provisoire destinée à faciliter les relations commerciales entre les deux pays; signée à Constantinople le $\frac{19 \text{ avril}}{1^{\text{er}} \text{ mai}}$ 1899.*)

Le Gouvernement de Sa Majesté le Roi de Serbie et le Gouvernement de Sa Majesté Impériale le Sultan, étant également animés du désir de régler provisoirement les relations commerciales entre les deux pays, ont nommé pour leurs Plénipotentiaires à cet effet savoir:

Sa Majesté le Roi de Serbie, son Excellence M. Stoyan Novakovitch, son Envoyé Extraordinaire et Ministre Plénipotentiaire près Sa Majesté Impériale le Sultan, Grand-Croix des Ordres de Takovo et de Saint-Sava, Grand Officier de l'Aigle Blanc, Grand Cordon des Ordres Impériaux de l'Osmanié et du Médjidié, &c.; et

Sa Majesté Impériale le Sultan, son Excellence Tevfik Pacha, son Ministre des Affaires Étrangères, décoré des Ordres Impériaux de l'Imtiaz, de l'Osmanié, et du Médjidié en brillants, &c.;

Lesquels sont convenus des dispositions suivantes;

Art. I. Les produits d'origine ou de manufacture Serbe qui sont importés en Turquie, et les produits d'origine ou de manufacture Ottomane qui sont importés en Serbie, seront respectivement soumis, quant aux droits d'importation, d'exportation, de transit, quant à la réexportation, au courtage, à l'entrepôt, aux droits locaux, et quant aux formalités douanières, au même traitement que les produits de la nation la plus favorisée.

Est excepté de la disposition ci-dessus le tabac produit dans l'Empire Ottoman, qui, lors de son exportation en Serbie, restera assujetti à un droit d'exportation de 4 piastres par ocque, soit $312^1/_2$ piastres par 100 kilog.

De même, en vertu du paragraphe 1er du Protocole Final de la Convention Vétérinaire conclue entre la Serbie et l'Autriche-Hongrie le $\frac{28 \text{ juillet}}{9 \text{ août}}$ 1892**), sont exceptés de la dite disposition l'introduction en Serbie et le transit par son territoire des bestiaux du territoire Ottoman jusqu'à la conclusion d'une Convention Vétérinaire entre les deux Hautes Parties Contractantes.

II. Le Gouvernement Royal de Serbie déclare appliquer aux articles d'origine ou de manufacture Ottomane, énumérés dans le Tableau ci-annexé,

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*) Les ratifications ont été échangées à Constantinople, le 31 juillet 1899.
) V. **N. R. G. 2e s. T. XX. 379.

les droits d'importation y inscrits, et aussi faire bénéficier ces articles des droits plus réduits qui seraient appliqués à l'égard des produits similaires d'un autre État.

III. Pour établir en cas de besoin que les produits sont d'origine ou de manufacture Ottomane ou Serbe, les autorités douanières des deux Parties Contractantes auront la faculté de soumettre l'importateur à l'obligation de présenter à la douane du pays d'importation soit une déclaration officielle faite devant un magistrat siégeant au lieu de l'expédition, soit un certificat délivré par le chef du service de la douane du bureau d'exportation, soit un certificat délivré par les Consuls ou Agents Consulaires du pays dans lequel l'importation doit être faite, et qui résident dans les lieux d'expédition ou dans les ports d'embarquement.

IV. Chacune des Parties Contractantes s'engage à ne tolérer aucun acte de contrebande qui serait dirigé contre le territoire de l'autre, et à communiquer, par l'entremise de leurs autorités compétentes, toutes les informations qui pourraient être utilisées ou qui seraient demandées par les bureaux de douane de l'autre Partie pour la constatation des fraudes.

V. La présente Convention recevra tous ses effets aussitôt l'échange des ratifications a eu lieu et restera en vigueur jusqu'au 15/27 février 1900.

Les ratifications seront échangées à Constantinople le plus tôt possible.

Fait et signé à Constantinople, le $\frac{\text{19 avril}}{\text{1 mai}}$ 1899.

(L. S.) *St. Novakovitch.*
(L. S.) *Tevfik.*

Protocole.

En procédant à la signature de la Convention de ce jour, les Plénipotentiaires respectifs déclarent que pour ce qui est des certificats d'origine prévus par l'Article III de la Convention, les Soussignés constatent qu'il ne sera usé de la faculté de les demander que dans le cas où il s'agirait d'établir la distinction des articles Ottomans ou Serbes favorisés par les dispositions de la présente Convention d'avec leurs similaires d'autre provenance soumis à un traitement moins favorable.

Le $\frac{\text{19 avril}}{\text{1 mai}}$ 1899.

St. Novakovitch.
Tevfik.

49.

PORTUGAL, ETATS-UNIS D'AMÉRIQUE.

Arrangement concernant les affaires commerciales; signé à Washington, le 22 mai 1899.

His Most Faithful Majesty the King of Portugal and of the Algarves, and the President of the United States of America, equally animated by the desire to confirm the good understanding existing between them and to increase the commercial intercourse of the two countries, have deemed it expedient to enter into a reciprocal Commercial Agreement to that end; and they have appointed as their Plenipotentiaries for that purpose, to wit:

His Most Faithful Majesty, the Viscount de Santo-Thyrso, His Majesty's Envoy Extraordinary and Minister Plenipotentiary at Washington; and

The President of the United States, the Honourable John A. Kasson, Special Commissioner Plenipotentiary;

Who, after an exchange of their respective full powers, found to be in due and proper form, have agreed upon the following Articles:

Art. I. Upon the following articles of commerce being the product of the soil or industry of Portugal, or of the Azores and Madeira Islands imported into the United States, the present rates of duty shall be reduced and shall hereafter be as follows, namely:

Upon argols, or crude tartar, or wine lees, 5 per cent. ad valorem.

Upon still wines in casks, 30 cents per gallon; in bottles, per case of one dozen bottles, containing each not more than 1 quart and more than 1 pint, or twenty-four bottles containing not more than 1 pint, 1 dol. 25 c. per case; and any excess beyond these quantities found in such bottles shall be subject to a duty of 4 cents per pint or fractional part thereof, but no separate or additional duty shall be assessed upon the bottles.

Upon sparkling wines, in bottles containing not more than 1 quart, and more than 1 pint, 6 dollars per dozen; containing not more than 1 pint each and more than 1 half-pint, 3 dollars per dozen; containing 1 half pint each, or less, 1 dol. 50 c. per dozen; in bottles or other vessels containing more than 1 quart each, in addition to 6 dollars per dozen bottles, on the quantities in excess of 1 quart, at the rate of 1 dol. 90 cents. per gallon.

Upon brandies or other spirits manufactured or destilled from grain or other materials, whether the product of Portugal or of the Portuguese possessions, 1 dol. 75 c. per proof gallon.

Upon paintings in oil or water colours, pastels, pen and ink drawings and statuary, 15 per cent. ad valorem.

II. Reciprocally and in consideration of the preceding concessions, upon the following articles of commerce, being the product of the soil or industry of the United States imported into the Kingdom of Portugal and the Azores or Madeira Islands, the rates of duty shall be as low as those accorded to any other country (Spain and Brazil being excepted from this provision) namely:

Tariff No. 325. Flour of cereals, except wheat.
Tariff No. 326. Maize in the grain.
Tariff No. 327. Wheat in the grain.
Tariff No. 354. Lard and grease.
Tariff No. 97.
Tariff No. 98.
Tariff No. 99.
} Mineral oils, and their products not elsewhere specified in the Tariff.

Tariff No. 373. Reaping, mowing, and threshing machines, machines for compressing hay and straw, steam ploughs, and separate parts of these machines and plough-shares.

Tariff No. 386. Instruments, implements and tools for the arts, manufactories, agriculture, and gardening; and upon the following articles shall not exceed the rates hereinafter stated, namely:

Upon the foregoing machines and articles described in No. 373, 5 reis per kilog.

Upon the instruments, implements, and tools described above in No. 386, for use in agriculture and gardening, 60 reis per kilog.

Upon lighter mineral oils for illuminating purposes (density of 0·780 up to 0·820; point of ignition from 37° up to 49°), 46 reis per litre.

Upon medium mineral oils (density above 0·820 and up to 0·860; point of ignition from 50° up to 150°), 52 reis per kilog.

Upon tar and mineral pitch, 10 reis per ton.

III. It is mutually understood that His Most Faithful Majesty's Government reserves the right, after three months' prior notification to the United States' Government of its intention to do so, to arrest the operation of this Convention in case the United States shall hereafter impose a duty upon crude cork or coffee, being the product of Portugal or of the Portuguese possessions, or shall give less favourable treatment to the following articles, being the product of Portugal or of her possessions, than that accorded to the like articles being the product of any other country not under the control of the United States, namely: argols, crude tartar or wine lees, coffee, cacao, wines, brandies, cork, raw or manufactured, sardines and anchovies, preserved; and fruits not preserved; but in respect to fruits the United States reserves the right to make special arrangements applicable to any of the West India Islands.

IV. This Agreement shall be ratified by His Most Faithful Majesty, so soon as possible; and upon official notice thereof the President of the United States shall issue his Proclamation giving full effect to the provisions of Article I of this Agreement. From and after the date of such Procla-

mation this Agreement shall be in full force and effect, and shall continue in force for the term of five years thereafter, and if not then denounced by either Party shall continue in force until one year from the time when one of the Parties shall have notified the other of its intention to arrest the operation thereof.

Done at Washington, the 22nd day of May, in the year 1899.

(L. S.) *Visconde de Santo Thyrso.*
(L. S.) *John A. Kasson.*

50.

CORÉE, CHINE.

Traité d'Amitié et de Commerce; signé à Séoul, le 11 septembre 1899.*)

His Majesty the Emperor of Corea and His Majesty the Emperor of China, being sincerely desirous of establishing permanent relations of harmony and friendship between their respective subjects, have resolved to conclude a Treaty for that purpose, and have, therefore, named as their Plenipotentiaries, that is to say:

His Majesty the Emperor of Corea, Pak Chei-sun, Corean Minister of Foreign Affairs, Minister of the Council of State, &c., His Majesty's Minister Plenipotentiary;

His Majesty the Emperor of China, Hsü Ta jen, His Majesty's Minister Plenipotentiary;

Who, having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following Commercial Treaty:

Art. I. There shall be perpetual peace and friendship between the Empire of Corea and the Empire of China, and between their respective subjects, who shall enjoy equally in the respective countries of the High Contracting Parties full protection and the advantages of favourable treatment.

If other Powers should deal unjustly or oppressively whith either Government, the other, on being informed of the case, will exert their good offices to bring about an amicable arrangement.

II. After the conclusion of this Treaty of Amity and Commerce the High Contracting Powers may each appoint Diplomatic Representatives to reside at the Court of the other, and may each appoint Consular Representatives at the ports of the other which are open to foreign commerce at

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*) Les ratifications ont été échangées à Séoul, le 14 décembre 1899.

their own convenience. These officials shall have relations with the corresponding local authorities of equal rank upon a basis of mutual equality.

The Diplomatic and Consular Representatives of the two Governments shall enjoy mutually all the privileges, rights, and immunities, without discrimination, which are accorded to the same class of Representatives from the most favoured nation.

Consuls shall exercise their functions only on receipt of an exequatur from the Government to which they are accredited.

No restrictions or difficulties shall be imposed upon the movements of the members of the official establishments of either country, or upon messengers carrying official despatches.

Consular authorities shall be *bonâ fide* officials. No merchant shall be allowed to exercise the duties of the office, nor shall Consular officers be allowed to engage in trade.

At ports to which no Consular Representatives have been appointed, the Consuls of the other Powers may be invited to act, provided that no merchant shall be allowed to assume Consular functions.

If the Consular Representatives of either country conduct their business in an improper manner, they shall be withdrawn on notice being given to the Diplomatic Reprentative of the country concerned.

III. Merchants and merchand-vessels of Corea visiting Chinese Treaty ports for purposes of trade shall pay import and export duties, and tonnage dues, and all other charges according to the Chinese Customs Regulations, and on the same terms as the similar duties levied on the subjects of the most favoured nation.

Chinese merchants and merchant-vessels visiting Corean Treaty ports for purposes of trade shall pay import and export duties, and tonnage dues, and all other charges according to the Corean Customs Regulations, and upon the same terms as the duties levied upon the subjects of the most favoured nation.

The subjects of both Powers shall be allowed to resort for purposes of trade to all the open ports in the dominion of the other.

Regulations for the conduct of trade and the Customs Tariff shall be those enjoyed by the most favoured nation.

IV. 1. Subjects of Corea who may proceed to the Chinese open ports may reside and rent premises, or lease land, and erect warehouses as they please, within the limits of the Settlements. They shall be at liberty to traffic in all kinds of native produce, in all manufactured goods, and in all articles that are not declared contraband.

Subjects of China who may proceed to the Corean open ports may reside and rent premises, or lease land, and erect warehouses, as they please, within the limits of the Settlements. They shall be at liberty to traffic in all kinds of native produce, in all manufactured goods, and in all articles that are not declared contraband.

All questions affecting the renting of land, the building of houses, the laying out of cemeteries, the payment of rent and taxes, and all other matters of a similar nature, at the Treaty ports of either country are to be determined in accordance with the Settlement and Municipal Council Regulations of the ports, which must not be infringed.

2. If there is, in addition to a general foreign Settlement, at a Treaty port in either country, a Settlement under the separate control of a foreign Power, questions affecting the renting of land or houses, and similar matters, shall be governed by the Regulations of that Settlement, which must not be infringed.

3. Chinese subjects shall enjoy all benefits and advantages granted to foreigners with reference to the leasing or purchase of land or houses beyond the limits of the foreign Settlements at the Treaty ports of Corea. But all land so occupied shall be subject to such conditions as to the observance of Corean Local Regulation and payment of land tax as the Corean authorities may see fit to impose,

Corean subjects shall enjoy all benefits and advantages granted to foreigners with reference to the leasing or purchase of land or houses beyond the limits of the foreign Settlements at the Treaty ports of China. But all land so occupied shall be subject to such couditions as to the observance of Chinese Local Regulations and the payment of land tax as the Chinese authorities may see fit to impose.

4. The subjects of neither country shall be permitted to rent land or houses, or open warehouses, beyond the limits of the area open to foreign trade at the Treaty ports of the High Contracting Parties. The penalty for a breach of this stipulation shall be the confiscation of the land, houses, or warehouses, and a fine of twice their original value.

5. No coercion or intimidation in the acquisition or lease of land shall be permitted, and the land so occupied shall remain an integral part of the State.

6. If merchandize is sent by the subjects of one of the High Contracting Parties from one Treaty port in the other country to another Treaty port in the same country, it shall be subject to the same dues and duties, prohibitions and regulations, as obtain in the case of the subjects of the most favoured nation.

V. 1. A Chinese subject who commits any offence in Corea shall be tried and punished by the Chinese Consular officials according to the laws of China.

A Corean subject who commits any offence in China shall be tried and punished by the Corean Consular officials according to the laws of Corea.

A Chinese subject who commits any offence against the life or property of a Corean in China shall be tried and punished by the Chinese authorities according to the laws of China.

A Corean subject who commits any offence against the life and property of a Chinese in Corea shall be tried and punished by the Corean authorities according to the laws of Corea.

When controversies arise between the subjects of the two countries, they shall be decided by the proper official of the nationality of the nationality of the defendant according to the laws of that country. The properly authorized official of the plaintiff's nationality shall be permitted to attend the trial and watch the proceedings, and shall be treated with the courtesy due to his position. If he so desires, he shall have the right to call examine witnesses, and if he is dissatisfied with the proceedings he shall be permitted to protest against them in detail.

2. If the subject of one of the High Contracting Parties who has committed an offence against the laws of his country takes refuge on the premises or on board a ship owned by a subject of the other, the local officials, after having notified the Consular authorities, shall send police to assist in having the offender arrested and brought to justice. The authorities of the nationality of the offender shall try the case. No concealment or protection of any such person shall be permitted.

3. If a subject of one of the High Contracting Parties who has committed an offence against the laws of his country takes refuge in the dominions of the other, the authorities of the latter country, on receiving an application, shall discover and hand over such person to his conntry for trial. No concealment or protection of such person shall be permitted.

4. When in the judgment of either of the High Contracting Parties, the laws and legal procedure of the other shall have been so far modified and reformed as to remove the present existing objections, the right of extra-territorial jurisdiction shall be relinquished.

VI. In China the export of rice and grain to foreign countries has always been prohibited. There is no prohibition of this kind in Corea, but it is agreed that whenever there is reason to apprehend a scarcity of food within the limits of the Empire, a prohibition against the export of rice and grain may be enforced, and shall be binding upon Chinese subjects, when it shall have been officially communicated by the Corean local authorities to the Chinese authorities concerned.

VII. If the subjects of either of the High Contracting Parties in their commercial dealings with each other are guilty of fraud or make fictitious sales, or do not pay their debts, the authorities of both Powers shall use stringent measures to arrest the offenders and obtain payment of the debts.

The Governments of the High Contracting Parties shall not be responsible for debts of this nature.

VIII. Chinese subjects shall have the right to travel under passports in the interior of Corea for purposes of pleasure or trade. They are, however, forbidden to reside or to open establishments for trade there.

The penalties for a breach of this stipulation shall be the confiscation of the goods and a fine of twice their original value.

Corean subjects shall have the right to travel under passports in the interior of China for purposes of pleasure or trade, and shall receive most-favoured-nation treatment in this respect.

IX. 1. The purchase of arms, munitions, and implements of war, as ordnance or cannon, shot and shell, fire-arms of all kinds, cartridges, side-arms, spears or pikes, saltpetre, gunpowder, guncotton, dynamite, and other explosive substances, is permitted only to the officials of the two Contracting Powers, and they may be imported by the subjects of either only under a written permit issued by the officials of the country into which they are imported.

If these articles are clandestinely imported or sold they shall be confiscated, and the offending party fined twice their original value.

2. The import of opium into Corea is prohibited, and if either foreign or Chinese-grown opiums is imported by Chinese subjects, it shall be confiscated, and the offending party fined twice its original value.

3. The export of red ginseng from Corea has always been prohibited. If Chinese subjects clandestinely buy and export it without the special permission of the Corean Government, it shall be seized and confiscated, and the offenders punished and fined as circumstances may require.

X. Whenever vessels of either of the two Contracting States are detained on the coast of the other through stress of weather or want of fuel or provisions, they may enter any port or harbour either to take refuge therein or to get supplies or to make repairs, the expenses incurred thereby being defrayed by the ship's master. In such event, the officers and people of the locality shall render all the assistance in their power, and furnish the necessaries required.

If a vessel trades clandestinely at a port not open to commerce or at any place where she is forbidden to proceed, the vessel, with her cargo, whether any trade has actually taken place or not, shall be seized and confiscated by the local authorities and the nearest Customs officials, and the offenders shall incur a fine of twice their original value.

Should a vessel of either Power be wrecked on the coast of the other, the local authorities, on being informed of the occurrence, shall immediately render assistance to the crew, provide for their immediate necessities, and take requisite measures for the salvage of the ship and the preservation of her cargo. They shall also bring the matter to the knowledge of the nearest Consular Representative in order that steps may be taken to send the crew home and to save the ship and her cargo. The necessary expenses shall be defrayed either by the ship's master or by the authorities of the nationality of the vessel concerned.

XI. The officers and people of either Power residing at trading places in the dominions of the other shall have the right to employ natives in any lawful capacity.

XII. After the present Treaty has been concluded a Tariff and Rules shall be drawn up to regulate the frontier trade, which has hitherto been carried on between the two Empires. All persons who have already crossed the frontier and reclaimed ground shall be allowed to pursue their avocations in peace, and enjoy protection for their lives and property. From this time forward migration across the frontier shall be prohibited on both sides in order to avoid complications.

The question of the determination of the site of a trade mart is reserved for discussion and settlement when the frontier rules come to be drawn up.

XIII. The ships of war of each country shall be at liberty to visit all the ports of the other whether open to foreign trade or not. They shall not be permitted to clandestinely import merchandize.

Supplies of all kinds for ships of war of either country shall not be liable to the payment of duties.

Officers and men of the ships of war of either country may land anywhere in the territories of the other, but shall not proceed into the interior unless they are provided with passports.

If articles used on board ship are for any reason sold, the purchaser shall pay the proper duty.

XIV. The present Treaty shall be ratified by His Majesty the Emperor of Corea and His Majesty the Emperor of China under their hands and seals, and the ratifications shall be exchanged at Seoul within one year at the latest from the date of signature, and immediately thereafter this Treaty shall be in all its provisions publicly proclaimed and made known by both Governments in their respective countries in order that it may be obeyed by their subjects respectively.

XV. The Chinese written character being common to both Corea and China, this Treaty, and future official correspondence, shall be made in Chinese for the sake of clearness.

(Signatures and Seals of Chinese and Corean Plenipotentiaries.)

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ETATS-UNIS D'AMÉRIQUE, GRANDE-BRETAGNE.

Correspondance concernant le commerce étranger en Chine du 22 septembre 1899 au 5 avril 1900.

Parliamentary Papers. Presented to both Houses of Parliament by Command of Her Majesty. April 1900. China N. 2, 1900.

Mr. Choate to the Marquess of Salisbury.
(Received September 22.)

American Embassy, London, September 22, 1899.

My Lord.

I am instructed by the Secretary of State to present to your Lordship a matter which the President regards as of great and equal importance to Great Britain and the maintenance of trade and commerce in the East, in which the interest of the two nations differs not in character, but in degree only, and to ask for action on the part of Her Majesty's Government, which the President conceives to be in exact accord with its uniformly declared policy and traditions, and which will greatly promote the welfare of commerce.

He understands it to be the settled policy and purpose of Great Britain not to use any privileges which may be granted to it in China as a means of excluding any commercial rivals, and that freedom of trade for it in that Empire means freedom of trade for all the world alike. Her Majesty's Government, while conceding by formal agreements with Germany and Russia, the possession of „spheres of influence or interest" in China, in which they are to enjoy special rights and privileges, particulary in respect to railroads and mining enterprises, has, at the same time, sought to maintain what is commonly called the „open door" policy, to secure to the commerce and navigation of all nations equality of treatment within such „spheres." The maintenance of this policy is alike urgently demanded by the commercial communities of our two nations, as it is justly held by them to be the only one which will improve existing conditions, enable them to maintain their positions in the markets of China, and extend their future operations.

While the Government of the United States will in no way commit itself to any recognition of exclusive rights of any Power within, or control over any portion of the Chinese Empire, under such Agreements as have been recently made it cannot conceal it apprehensions that there is danger of complications arising between the Treaty Powers which may imperil the rights insured to the United States by its Treaties whit China.

It is the sincere desire of my Government that the interests of its citizens may not be prejudiced through exclusive treatment by any of the controlling Powers within their respective „spheres of interest“ in China, and it hopes to retain there an open market for all the world's commerce, remove dangerous sources of international irritation, and thereby hasten united action of the Powers at Peking to promote administrative reforms, so greatly needed for strengthening the Imperial Government and maintaining the integrity of China, in which it believes the whole Western world is alike concerned. It believes that such a result may be greatly aided and advanced by declarations by the various Powers claiming „spheres of interest“ in China as to their intentions in regard to the treatment of foreign trade and commerce therein, and that the present is a very favourable moment for informing Her Majesty's Government of the desire of the United States to have it make on its own part, and to lend its powerful support in the effort to obtain from each of the various Powers claiming „spheres of interest“ in China, a declaration substantially to the following effect:

1. That it will in nowise interfere whith any Treaty port or any vested interest within any so-called „sphere of interest“ or leased territory it may have in China.

2. That the Chinese Treaty Tariff of the time being shall apply to all merchandize, landed or shipped to all such ports as are within such „sphere of interest“ (unless they be „free ports“) no matter to what nationality it may belong, and that duties so leviable shall be collected by the Chinese Government.

3. That it will levy no higher harbour dues on vessels of another nationality frequenting any port in such „sphere“ than shall be levied on vessels of its own nationality—and no higher railroad charges over lines built, controlled, or operated, within its „sphere“ on merchandize belonging to citizens or subjects of other nationalities transported through such „spheres“ than shall be levied on similar merchandize belonging to its own nationals, transported over equal distances.

The President has strong reason to believe that the Governments of Russia and Germany will co-operate in such an understanding as is here proposed. The recent Ukase of His Majesty the Emperor of Russia, declaring the port of Talienwan open to the merchant-ships of all nations, during the whole term of the lease under which it is to be held by Russia, removes all uncertainty as to the liberal and conciliatory policy of that Power, and justifies the expectation that His Majesty will accede to the similar request of the United States, now being presented to him, and make the desired declaration.

The recent action of Germany in declaring the port of Kiao-Chao a „free port,“ and the aid which its Government has given China, in establishing there a Chinese Custom-house, coupled with oral assurances given the United States by Germany, that the interests of the United States and its citizens within its „sphere“ would in nowise be affected by its

occupation of this portion of the Province of Shantung, encourage the belief that little opposition is to be anticipated to the President's request for a similar declaration from that Power.

It is needless also to add that Japan, the Power next most largely interested in the trade of China, must be in entire sympathy with the views here expressed, and that its interests will be largely served by the proposed arrangement, and the declarations of its statesmen within the last year are so entirely in line with it that the co-operation of that Power is confidently relied upon.

It is therefore with the greatest pleasure that I present this matter to your Lordship's attention, and urge its prompt consideration by Her Majesty's Government, believing that the action now requested is in entire harmony whitb its consistent theory and purpose, and that it will greatly redound to the benefit and advantage of all commercial nations alike. The prompt and sympathetic co-operation of Her Majesty's Government with the United States in this important matter will be very potent in promoting its adoption by all the Powers concerned.

I have, &c.

(Signed) *Joseph H. Choate.*

The Marquess of Salisbury to Mr. Choate.

Foreign Office, September, 29, 1899.

Your Excellency,

I have read with gread interest the communication which you handed to me on the 22nd instant, in which you inform me of the desire of the United States' Government to obtain from the various Powers claiming spheres of interest in China declarations as to their intentions in regard to the treatment of foreign trade and commerce therein.

I have the honour to inform your Excellency that I will lose no time in consulting my colleagues in regard to a declaration by Her Majesty's Government, and on the proposal that they should co-operate with the Government of the United States in obtaining similar declarations by the other Powers concerned.

In the meantime, I may assure your Excellency that the policy consistently advocated by this country is one of securing equal opportunity for the subjects or citizens of all nations in regard to commercial enterprise in China, an that from this policy Her Majesty's Government have no intention or desire to depart.

I have, &c.

(Signed) *Salisbury.*

The Marquess of Salisbury to Mr. Choate.

Foreign Office, November 30, 1899.

Your Excellency,

With reference to my note of the 29th September last, I have the honour to state that I have carefully considered, in communication with my colleagues, the proposal contained in your Excellency's note of the 22nd September, that a declaration should be made by foreign Powers claiming „spheres of interest" in China, as to their intentions in regard to the treatment of foreign trade and interests therein.

I have much pleasure in informing your Excellency that Her Majesty's Government will be prepared to make a declaration in the sense desired by your Government in regard to the leased territory of Wei-hai Wei, and all territory in China which may hereafter be acquired by Great Britain by lease or otherwise, and all spheres of interest now held, or which may hereafter be held, by her in China, provided that a similar declaration is made by the other Powers concerned.

I am, &c.

(Signed) *Salisbury.*

Mr. Choate to the Marquess of Salisbury. —
(Received December 6.)

American Embassy, London, December 6, 1899.

My Lord,

I have the honour to acknowledge the receipt of your Lordship's note of the 30th November, in which you inform me that, after having carefully considered, in connection with your colleagues, the proposal contained in my note of the 22nd September last, Her Majesty's Government is prepared to make a declaration in the sense desired by my Government in regard to the leased territory of Wei-hai Wei, and all territory in China which may hereafter be acquired by Great Britain, by lease or otherwise, and all „spheres of interest" now held, or which may hereafter be held by her in China, provided that a similar declaration is made by other Powers. In acknowledging your Lordship's note, I have also, under instructions from the Secretary of State, to express to your Lordship the gratification he feels at this cordial acceptance by Her Britannic Majesty's Government of the proposals of the United States.

I have, &c.

(Signed) *Joseph H. Choate.*

Mr. White to the Marquess of Salisbury. —
(Received March 31.)

American Embassy, London, March 30, 1900.

My Lord,

With reference to Mr. Choate's note of the 22nd September, and to that of your Lordship in reply dated the 30th November last, I have the

honour to inclose herewith copies, with translations, of the notes which have been received from the Governments of France, Germany, Italy, Japan, and Russia in reply to the proposals of my Government concerning foreign trade in China, from which you will perceive that the Declaration suggested by the United States on that subject has been accepted by those Powers.

I am, therefore, instructed as the condition originally attached to the acceptance by Her Majesty's Government of the Declaration in question — namely, that all other Powers having leased territories or so-called „spheres of interest" in the Chinese Empire, should accept the proposals of the United States — has been complied with, to inform your Lordship that my Government will consider the assent given thereto by Great Britain as final and definitive.

I have the honour, furthermore, in accordance with instructions from the Secretary of State, to convey to your Lordship the expression of the President's sincere gratification at the successful termination of these negotiations, in which he sees a proof of the friendly spirit which has animated the various Powers interested in the untrammelled development of commerce and industry in the Chinese Empire, and a source of vast benefits to the whole commercial world.

I have, &c.
(Signed) *Henry White.*

Inclosure 1.

M. Delcassé to Mr. Porter.

(Translation.) [Received December 16, 1899.]

My dear Ambassador,

I find your note awaiting me on my return. The declarations which I made in the Chamber on the 24th November last, and which I have had occasion to recall to you since then, show clearly the sentiments of the Government of the Republic; it desires throughout the whole of China and, with the quite natural reservation that all the Powers interested give an assurance of their willingness to act likewise, is ready to apply in the territories which are leased to it equal treatment to the citizens and subjects of all nations, especially in the matter of customs duties and navigation dues, as well as transportation tariffs on railways.

I beg you, &c.
(Signed) *Delcassé.*

Inclosure 2.

Mr. Jackson to Mr. Hay.

Berlin, December 4, 1899.

Secretary of State, Washington,

I have just had a conversation with Secretary of State for Foreign Affairs, who stated that the politics of Germany in the Extreme Orient are, de facto, the policy of the open door, and Germany proposes to

maintain this principle in the future. Germany does not wish the question to become the object of controversy between the different Powers engaged in China. She thinks it would be advantageous for the United States' Government to confer with other European Governments having interests in China. If the other Cabinets adhere to the proposal of the United States' Government, Germany will raise no objection, and Germany is willing to have the Government of the United States inform these other Cabinets that no difficulty will come from her if the other Cabinets agree.

(Signed) *Jackson*, Chargé.

Inclosure 3.

Herr von Bülow to Mr. Jackson.

(Translation.) Foreign Office, Berlin, February 19, 1900.

Mr. Ambassador,

Your Excellency informed me, in a Memorandum presented on the 24th of last month, that the Government of the United States of America had received satisfactory written replies from all the Powers to which an inquiry had been addressed similar to that contained in your Excellency's note of the 26th September last, in regard to the policy of the open door in China. While referring to this your Excellency there upon expressed the wish that the Imperial Government would now also give its answer in writing.

Gladly complying with this wish, I have the honour to inform your Excellency, repeating the statements already made verbally, as follows:

As recognized by the Government of the United States of America, according to your Excellency's note referred to above, the Imperial Government has, from the beginning, not only asserted, but also practically carried out to the fullest extent in its Chinese possessions, absolute equality of treatment of all nations with regard to trade, navigation and commerce.

The Imperial Government entertains no thought of departing in the future from this principle, which at once excludes any prejudicial or disadvantageous commercial treatment of the citizens of the United States of Amerika, so long as it is no forced to do so, on account of considerations of reciprocity, by a divergence from it by other Governments.

If, therefore, the other powers interested in the industrial development of the Chinese Empire are willing to recognize the same principles, this can only be desired by the Imperial Government, which in this case, upon being requested, will gladly be ready to participate with the United States of America and the other Powers in an Agreement made upon these lines, by which the same rights are reciprocally secured.

I avail, &c.

(Signed) *Bülow.*

Inclosure 4.

Marquis Visconti Venosta to General Draper.

(Translation.) Rome, January 7, 1900.

Mr. Ambassador,

Supplementary to what you had already done me the honour of communicating to me in your note of the 9th December 1899, your Excellency informed me yesterday of the telegraphic note received from your Government, that all the Powers consulted by the Cabinet at Washington concerning the suitability of adopting a line of policy which would insure to the trade of the whole world equality of treatment in China, have given a favourable reply.

Referring to your communications and to the statements in my note of the 23rd December last, I take pleasure in saying that the Government of the King adheres willingly to the proposals set forth in said note of the 9th Dezember.

I beg your Excellency to kindly convey the notice of our adhesion to the Cabinet of Washington, and I avail, &c.

(Signed) *Visconti Venosta.*

Inclosure 5.

Viscount Aoki to Mr. Buck.

Department of Foreign Affairs, Tôkiô, the 26th day,
(Translation.) the 12th month of the 32nd year of Meiji.

M. le Ministre,

I have the honour to acknowledge the receipt of the note of the 20th instant, in which, pursuing the instructions of the United States' Government, your Excellency was so good as to communicate to the Imperial Government, the representations of the United States, as presented in notes to Russia, Germany, and Great Britain on the subject of commercial interests of the United States in China.

I have the happy duty of assuring your Excellency that the Imperial Government will have no hesitation to give their assent to so just and fair a proposal of the United States, provided that all the other Powers concerned shall accept the same.

I avail, &c.

(Signed) Viscount *Aoki Siuzo.*
Minister for Foreign Affairs.

Inclosure 6.

Count Mouravieff to the United States' Minister at St. Petersburgh.

Ministry of Foreign Affairs, St. Petersburgh,
(Translation.) December 18 (30), 1899.

Mr. Ambassador,

I had the honour to receive your Excellency's not dated the 8th (20th) September last, relating to the principles which the Government

of the United States would like to see adopted in commercial matters by the Powers which have interests in China.

In so far as the territory leased by China to Russia is concerned, the Imperial Government has already demonstrated its firm intention to follow the policy of „the open door" by creating Dalny (Talienwan) a free port; and if at some future time that port, although remaining free itself, should be separated by a Custom-limit from other portions of the territory in question, the Customs duties would be levied, in the zone subject to the tariff, upon all foreign merchants without distinction as to nationality.

As to the ports now opened, or hereafter to be opened, to foreign commerce by the Chinese Government, and which lie beyond the territory leased to Russia, the settlement of the question of customs duties belongs to China herself, and the Imperial Government has no intention whatever of claiming any privileges for its own subjects to the exclusion of other foreigners. It is to be understood, however, that this assurance of the Imperial Government is given upon condition that a similar declaration shall be made by other Powers having interests in China.

With the conviction that this reply is such as to satisfy the inquiry made in the aforementioned note, the Imperial Government is happy to have complied with the wishes of the American Government especially because it attaches the highest value to anything that may strengthen and consolidate the traditional relations of friendship existing between the two countries.

I beg you, &c.

(Signed) Count *Mouravieff.*

The Marquess of Salisbury to Mr. White.

Fore.gn Office, April 5, 1900.

Sir,

I have the honour to acknowledge the receipt of your note of the 30th ultimo, inclosing copies, with translations, of the notes which have been received from the Governments of France, Germany, Italy, Japan, and Russia, in reply to the proposals of the Government of the United States in regard to foreign trade in the leased territories or „spheres of interest" acquired by those Powers in China.

The successful termination of the negotiations carried on by the United States' Government in the matter has been a source of much gratification to Her Majesty's Government. In reference to the territories in the occupation of Great Britain, mentioned in my note to Mr. Choate of the 30th November, I have the pleasure of informing you that Her Majesty's Government are quite willing to sign a Declaration in the sense proposed by your Government.

I have, &c.

(Signed) *Salisbury.*

52.

GRANDE-BRETAGNE, FRANCE.

Echange de Notes concernant la gratuité de la délivrance ou du visa des certificats d'origine par les autorités consulaires des deux pays; du 2 octobre au 15 novembre 1899.

Archives Diplomatiques.

Sir E. Monson to M. Delcassé.

Paris, October 2, 1899.

M. le Ministre,

I have the honour to inform your Excellency that I communicated to Her Majesty's Government a copy of M. Waldeck-Rousseau's note of the 2nd August last, stating the bases on which the Government of the French Republic are ready to come to an Agreement with Her Majesty's Government with regard to reciprocity for the waiver of certain Consular fees charged for attesting certificates of origin.

I have now received instructions from the Marquess of Salisbury to inform your Excellency that Her Majesty's Government agree to the proposed arrangement, and having been authorized to proceed to an exchange of notes with your Excellency, I beg that you will be so good as to communicate to me the draft of a note embodying the terms suggested in M. Waldeck-Rousseau's note above referred to.

I have, &c.,

M. Delcassé. *Edmund Monson.*

M. Delcassé to Sir E. Monson.

Paris, le 13 octobre 1899.

M. l'Ambassadeur,

Votre Excellence a bien voulu me faire connaître par une lettre du 2 de ce mois que le Gouvernement Britannique était disposé à conclure avec le Gouvernement de la République un arrangement concernant la gratuité de la délivrance ou du visa des certificats d'origine par les autorités Consulaires des deux pays, sur les bases indiquées dans la dépêche de mon Département du 2 août dernier.

En réponse à cette communication et pour donner suite à ce projet d'entente, j'ai l'honneur de porter à la connaissance de votre Excellence que le Gouvernement de la République a décidé qu'à l'avenir

1. Les Consuls Français dans le Royaume-Uni délivreront gratuitement les certificats d'origine qui lui seront demandés.

2. Les certificats d'origine délivrés par les autorités locales autres que les Douanes, à savoir, par les Maires, les Magistrats, les Chambres de Commerce, &c., seront soumis, comme par le passé, à l'obligation du visa Consulaire, mais ce visa ne donnera lieu dorénavant à la perception d'aucune taxe.

3. Les certificats d'origine émanant des Douanes Anglaises, lorsqu'ils seront munis du cachet de ces Douanes et qu'aucun doute ne s'élèvera sur leur authenticité, continueront à être admis par les Douanes Françaises sans visa ou légalisation Consulaire.

Je serais reconnaissant à votre Excellence de vouloir bien, de son côté, me donner au nom de son Gouvernement l'assurance que par réciprocité

1. Les autorités Consulaires Britanniques en France délivreront gratuitement les certificats d'origine qui leur seront demandés.

2. Les certificats d'origine dressés par les autorités locales Françaises seront visés sans frais par les Agents Consulaires Britanniques en France.

3. Les certificats d'origine émanant des Douanes Françaises et munis de leurs cachets seront admis par les Douanes Anglaises sans visa Consulaire.

Les deux Gouvernements seront d'ailleurs libres de mettre fin à toute époque à l'accord ainsi intervenu entre eux.

Dès que votre Excellence aura bien voulu me faire connaître que son Gouvernement est entièrement d'accord sur ces différents points avec le Gouvernement de la République, je m'empresserais de donner les instructions nécessaires pour la mise en application des dispositions ainsi arrêtées en principe.

Agréez, &c.,

Sir E. Monson. *Delcassé.*

Sir E. Monson to M. Delcassé.

Paris, November 15, 1899.

M. le Ministre,

I have the honour to acknowledge the receipt of your Excellency's note of the 13th ultimo, informing me of the Regulations which the Government of the Republic have laid down with regard to the gratuitous issue in future of certificates of origin by French Consuls resident in the United Kingdom.

While thanking your Excellency for this communication, I am authorized to inform you that Her Majesty's Government will, in return, issue forthwith the reciprocal directions to British Consuls resident in France, who will be instructed

1. To deliver gratuitously upon application certificates of origin.

2. To legalize („viser") without charge a certificate of origin drawn up by the local French authorities.

The British Customs authorities also will be instructed to recognize certificates of origin issued by the French Customs and bearing their seal.

It is understood that the two Governments are at liberty to terminate at any moment the Agreement now come to between them.

I would suggest that the new Regulations should come into force in both countries on the 1st January 1900.

I have, &c.,

M. Delcassé. *Edmund Monson.*

53.

ITALIE, BELGIQUE.

Déclaration pour la reconnaissance réciproque des Certificats de Jaugeage délivrés dans les deux pays; faite à Rome, le 13 octobre 1899.

Moniteur belge 1899.

Le Gouvernement de Sa Majesté le Roi des Belges et le Gouvernement de Sa Majesté le Roi d'Italie, considérant qu'une méthode identique (système Moorsom) a été adoptée, tant dans le Royaume de Belgique que dans le Royaume d'Italie, pour le jaugeage des navires de mer, sauf certaines différences portant sur les déductions de tonnage à accorder pour les espaces occupés par les appareils de force motrice des navires à vapeur, &c., les Soussignés, dûment autorisés à cet effet, sont conveuus des dispositions suivantes, destinées à remplacer celles qui ont fait l'objet de la Déclaration échangée, le 29 juillet 1884, entre les deux pays sur le même objet:

Art. 1er. Le tonnage net des navires, d'après lequel sont perçus les droits de navigation, sera établi dans les ports Belges pour les navires à voiles et à vapeur Italiens, et dans les ports Italiens pour les navires à voiles et à vapeur Belges, sans aucune nouvelle opération de jaugeage, autant que possible au moyen des indications contenues dans les certificats de jauge délivrés à ces navires et en appliquant les règles de déduction en vigueur dans chacun des deux pays pour les navires nationaux. Aucun espace ne sera soumis à un nouveau mesurage si sa capacité est indiquée dans les certificats susvisés ou peut être calculée à l'aide des données mentionnées sur ces cerificats.

2. Pour la détermination du tonnage brut et ensuite du tonnage net des navires on se conformera aux règles suivantes:

A. Dans les ports Belges:

1. On déduira du tonnage brut total figurant sur les certificats de jaugeage des navires Italiens pourvus de doubles fonds pour lest d'eau 5 pour cent de ce tonnage pour la capacité présumée de ces doubles fonds:

2. On déduira du tonnage net indiqué sur les certificats de jaugeage des navires Italiens la capacité des espaces indiqués ci-après, savoir:

a) Les cuisines, les chambres du gouvernail, les bouteilles (W. C.) et les autres locaux dont la capacité est comprise en Italie dans le tonnage brut des navires et en est exclue en Belgique;

b) Les espaces destinés exclusivement à l'usage personnel du capitaine; ceux destinés à la conservation des cartes, signaux et autres instruments de la navigation, à la conservation des appprovisionnements du contremaître, des objets de timonnerie et d'équipement, des fanaux et lampes, &c., destinés à l'usage du navire et à son entretien (espaces deduits en Belgique du tonnage brut et non déduits en Italie).

B. Dans les ports Italiens:

1. On ajoutera au tonnage net porté sur les certificats de jaugeage des navires Belges pourvus de doubles fonds pour lest d'eau une quantité représentant 5 pour cent du tonnage brut total de ces navires;

2. On ajoutera également au tonnage net porté sur les certificats de jaugeage des navires Belges la capacité des espaces désignés ci-après, savoir:

a) Les cuisines, les chambres du gouvernail, les bouteilles (W. C.) et les autres locaux dont la capacité est compris en Italie dans le tonnage brut des navires et en est exclue en Belgique;

b) Les espaces destinés exclusivement à l'usage personnel du capitaine; ceux destinés à la conservation des cartes, signaux et autres instruments de la navigation, à la conservation des approvisionnements du contremaître, des objets de timonnerie et d'équipement, des fanaux et lampes, &c., destinés à l'usage du navire et à son entretien (espaces déduits en Belgique du tonnage brut et non déduits en Italie);

3. On déduira du tonnage net des navires à vapeur Belges la différence entre la capacité réelle des espaces occupés par les appareils moteurs—mesurés conformément aux prescriptions de l'Article 22 du Règlement de jaugeage Belge du 2 décembre 1897 —et leur capacité calculée d'après le Règlement de jaugeage Italien, Toutefois, pour éviter ces derniers calculs, et d'une manière générale, le tonnage net des navires Belges, établi d'après les règles Anglaises et figurant sur les certificats spéciaux de jauge délivrés par application de l'Article 41 du Règlement Belge du précité, sera admis dans les ports Italiens au même titre que le tonnage net des navires Anglais.

3. Dans le cas où il serait absolument nécessaire de remesurer partiellement les locaux occupés par les appareils moteurs, les soutes à charbon ou d'autres locaux, les frais seront calculés d'après les règlements en vigueur dans les pays respectifs, mais seulement en raison des espaces qui auront été réellement jaugés.

4. Les certificats de jaugeage auxquels se réfère la présente Déclaration sont, pour les navires Belges, ceux qui auront été délivrés par les autorités compétentes Belges à partir du 1er Janvier 1898, et, pour les navires Italiens, ceux qui auront été délivrés par les autorités compétentes Italiennes

à partir du 1er juillet 1873, s'il s'agit de voiliers, et à partir du 21 septembre 1882, s'il s'agit de bâtiments à vapeur.

En foi de quoi les Soussignés ont dressé la présente Déclaration, qui entrera en vigueur le jour de sa signature.

Fait à Rome, en double exemplaire, le 13 octobre 1899.

(L. S.) *Maurice Saictelette,*
Chargé d'Affaires de Sa Majesté le Roi des Belges.

(L. S.) *Visconti Venosta,*
Ministre des Affaires Etrangères de Sa Majesté le Roi d'Italie.

54.

MEXIQUE, CHINE.

Traité destiné à faciliter les relations commerciales entre les deux pays contractants; signé à Washington, le 14 décembre 1899.*)

The President of the United Mexican States and His Majesty the Emperor of China, being equally animated by the desire to establish friendly relations between the two countries and their citizens and subjects, have resolved to conclude a Treaty of Friendship, Commerce, and Navigation, and for that purpose have named their respective Plenipotentiaries, that is to say:

The President of the United Mexican States, Manuel de Azpiroz, Ambassador Extraordinary and Plenipotentiary of the United Mexican States in Washington; and

His Majesty the Emperor of China, Wu Ting-fang, an official of the Second Rank, Minister of State of the Fourth Class by brevet, and Envoy Extraordinary and Minister Plenipotentiary to the United States of America, Spain, and Peru;

And we, the said Plenipotentiaries, after having exhibited our respective full powers, and finding them in due and good form, have agreed upon the following Articles:

Art. I. There shall be perpetual, firm, and sincere friendship between the United Mexican States and the Chinese Empire, as also between their respective citizens and subjects. They shall be at liberty to freely go to the respective countries of the High Contracting Parties and reside therein. They shall there have complete protection in their persons, families, and property, and they shall enjoy all the rights and advantages which are granted to the subjects of the most favoured nation.

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*) Les ratifications ont été échangées à Washington, le 19 juin 1900.

II. In order to facilitate friendly relations between the two countries, the President of the United Mexican States may appoint a Diplomatic Agent to the Court at Peking, and His Majesty the Emperor of China may likewise appoint a Diplomatic Agent near the Mexican Government.

The Diplomatic Agents of each of the High Contracting Parties may reside permanently or temporarily in the capital of the other, with their families and members of their suite, and enjoy, in the countries of their respective residence, the same prerogatives, exemptions, immunities, and privileges granted to the Agents of the same rank of the most favoured nation.

III. Each of the High Contracting Parties may appoint, at the ports or cities of the other open to foreign commerce, Consuls-General, Consuls, Vice-Consuls, and Consular Agents. These shall not enter in the discharge of their duties until they receive the exequatur of the Government of the country where they are to reside. The exequatur shall be issued free of charge. At the ports or cities where no Consul is appointed, his functions may be performed by a Consul of a friendly nation. Where there is no Consul the local authorities shall see that the citizens or subjects of the other Contracting Party enjoy the benefits of the present Treaty.

The Consular officers of the High Contracting Parties shall perform all the functions, and enjoy all the immunities and privileges which, in either of the two countries, are granted to the Consular officers of the most favoured nation.

The Consular officers shall not support the demands of their citizens or subjects if provocative or offensive to the authorities or inhabitants of their place of residence.

Should a Consular officer adopt offensive conduct towards the laws of the country of his residence, the exequatur may be withdrawn from him.

IV. Mexican citizens shall be permitted to go into the interior of China and travel therein, provided they are furnished with a passport issued, at the request of the Mexican Consul, by the Customs Taotai. This passport, written in the two languages, Spanish and Chinese, must be shown when the authorities of the place of transit ask it, and returned at the end of the journey. No obstacle shall be placed in the way of travellers engaging men, vehicles, or vessels for the transportation of their baggage.

In case the traveller is not provided with the proper passport, or he commits an unlawful act, he shall be delivered for trial to the nearest Consul of Mexico or of a friendly nation previously designated by the Mexican Government. In this case the local authorities can only arrest the traveller, without insulting him or permitting any violence to him.

Mexican citizens shall be at liberty to make excursions without the necessity of providing themselves with a passport, in the neighbourhood of the open ports, for a distance not exceeding 100 *li*, and for a time not exceeding five days.

These stipulations are not applicable to the crews of vessels, who shall be subject, during their stay on land, to the regulations established by the Consuls and the authorities.

Chinese subjects shall be at liberty to travel through all the territory of Mexico as long as they conduct themselves peaceably and do not violate the laws and regulations of the country.

V. It is agreed between the two High Contracting Parties that the emigration of their respective subjects, whether accompanied by their families or not, shall be in future free and voluntary; consequently they disapprove of every act of violence or trickery which might be committed in the ports of China or anywhere else for the purpose of expatriating Chinese subjects against their will.

The two Governments engage themselves to prosecute with all the rigour of the laws any contravention of the preceding stipulation, and to impose penalties established by their respective legislations upon the persons and ships who may violate stipulation.

VI. Mexican citizens shall be at liberty to travel whit their merchandize and engage in commercial pursuits in all the ports of China where the subjects of other nations are permitted to engage in commerce.

Chinese subjects shall, likewise, be at liberty to travel and engage in commerce in places of the Mexican Republic, under the same conditions as the subjects of all other nations. It is to be unterstood that in case either of the High Contracting Parties should hereafter grant, of its own accord, to any other nation advantages subject to special conditions, the other Contracting Party shall enjoy said advantages, only provided it complies with the conditions imposed therein or their equivalent, to be mutually agreed upon.

VII. The citizens or subjects and merchand-vessels of each of the High Contracting Parties shall be subject, at the ports of the other open to foreign commerce, to the legal provisions which now regulate commerce with all other nations or which may be issued hereafter,

VIII. The import duties imposed in the United Mexican States on the produce of the soil and industry of China, and in the Empire of China on the produce of the soil and industry of Mexico, shall be no other nor higher than those to which the same produce of the most favoured nation are or may be subject.

The same principle shall be observed in regard to exportation.

No prohibition nor restriction of importation or exportation shall take place in the reciprocal commerce of both countries, unless it be likewise applied to all other nations, except for sanitary motives or for the purpose of preventing the propagation of epizooties or the loss of crops, or also in view of events of war.

IX. The ships of war of each of the Contracting Parties shall be admitted into the ports of the other, where those vessels of all other nations are allowed to enter, and to be treated as those of the most favoured nation.

They shall have entire liberty to purchase provisions, coal, and the necessary articles for a voyage, as also to get water and have all necessary repairs made.

The ships of war shall be exempt from the payment of all duties, both an their arrival and departure.

The Commanders of Mexican ships of war in China and the local principal authorities shall mutually treat each other on the basis of equality.

X. The citizens or subjects of each of the Contracting Parties, in the dominions and possessions of the other shall be exempt from all compulsory military service whatever, whether in the army, navy, or national guard, or militia. They shall likewise be exempt from all contributions, whether pecuniary or in kind, imposed as a compensation for personal service, and finally, from forced loans, and from charges, requisitions, and war contributions, unless imposed on real property, when they shall pay them equally with nationals.

The vessels, cargoes, merchandize, or effects of citzens or subjects of neither Contracting Party shall be detained for any military expeditions, or for any public purpose whatever without corresponding compensation first being agreed upon and settled.

XI. The merchant-vessels of each of the Contracting Parties shall be at liberty to frequent the ports of the other open to foreign commerce or that may hereafter be opened.

It is, however, agreed that this concession does not extend to the coasting trade, granted only to the national vessels in the territory of the Contracting Parties. But if one of them should permit it, wholly or in part, to any nation or nations, the other Party shall have the right to claim the same concessions or favours for its citizens or subjects, provided said Contracting Party is willing, on its part, to grant reciprocity in all its claims on this point.

The vessels of each of the Contracting Parties shall not be subject, in the territory or ports of the other, on their entrance, departure, or stay, to other or higher duties, charges, or fees of public officials, on account of tonnage, lighthouse, port, pilotage, quarantine, salvage, assistance in case of damage or shipwreck, nor to other charges or duties, local or federal, of whatever kind or denomination, than are paid or which may hereafter be paid by vessels of any other nation.

For the application of this and other Articles of the present Treaty, those are to be understood as ports of each of the Contracting Parties which are opened or that may hereafter be opened to the import and export trade by the respective Government.

The two Contracting Parties agree upon considering a distance of 3 marine leagues, measured from the line of low tide, as the limit of their territorial waters for everything relating to the vigilance and enforcement of the Custom-house Regulations and the necessary measures for the prevention of smuggling.

The vessels of each of the High Contracting Parties which may have been disabled near the coast of the other and may have to seek shelter in a port, shall receive from the local authorities all the assistance which they can render.

The merchandize saved shall not be subject to the payment of duties, unless it shall be landed for the purpose of sale.

Those vessels shall be treated on the same terms as are granted under similar circumstances to those of other countries.

XII. The engagement by contract of citizens or subjects of one country as labourers, servants, or the like, in plantations, mills, shops, business establishements, or private families, in the other country, shall be subject to rules to be established by mutual agreement between both High Contracting Parties.

XIII. Mexicans in China who may have occasion of complaint against Chinese, shall lay their complaint before the Mexican Consul, who shall investigate the facts of the case and exert himself to bring about an amicable settlement.

If a Chinese should, likewise, have any occasion of complaint against a Mexican in China, the Mexican Consul shall listen to his complaint, and try to obtain a friendly settlement. Should the Consul be unable to reconcile the parties, the case is then to be submitted, in all equity, whether the plaintiff be a Mexican or a Chinese, only to the Court to which the accused is subject.

XIV. Mexican citizens in China, who may commit any crime against Chinese subjects, shall be arrested by the Mexican Consular authorities and punished in accordance with the laws of Mexico.

Chinese subjects guilty of criminal acts against Mexican citizens in China shall be arrested and punished by the Chinese authorities in conformity with the laws of China.

As a general rule, every civil or criminal suit instituted in China, between the citizens or subjects of the two Contracting Parties, shall be tried only according to the laws and by the authorities of the country to which the defendant or accused belongs.

The High Contracting Parties shall not be bound to reimburse any money that has been stolen or obtained by fraud, or owing by a citizen or subject of one of the two countries to a subject or citizen of the other country. In case of robbery or fraud, the proceedings to be instituted shall be in accordance with the laws of country to which the accused belongs; and in case of debt, the authorities of the country of the debtor shall do all they can to make the debtor comply with his obligation.

Should Chinese subjects in China, who are principal actors or accomplices of a crime, take refuge in the houses, warehouses or on board the merchant-vessels of Mexican citizens, the Chinese authorities shall lay the facts in this case before the Mexican Consular officers, and they shall conjointly appoint agents for the apprehension of the criminals, who shall not be protected nor hidden.

XV. All legal questions that may arise in China between Mexican citizens concerning their persons or property shall be subject tho the exclusive jurisdiction of the Mexican authorities. Suits instituted in China

between Mexican citizens and foreigners shall be decided only by the authorities of their respective countries.

When Chinese shall be concerned in suits, the proceedings shall be in accordance with the provisions of the two preceding Articles.

Should the Chinese Government think proper, hereafter, to establish, in accord with foreign Powers, a code for the purpose of settling the matter of jurisdiction over foreign subjects in China, Mexico shall have an equal share in said agreement.

XVI. Persons, of whatever condition they may be, who may land from vessels of one of the High Contracting Parties, at an open port of the other, and cause any disturbance on shore within twenty-four hours of their landing, shall be punished by the proper local authorities, but only with fine or imprisonment in accordance with the usages established at said port.

The questions arising from collisions in Chinese waters between vessels of the two countries shall be decided by the authorities of the accused, in accordance with the legal regulations in force in all countries respecting collisions.

Should the complainant not be satisfied with the decision, the Agents of the country to which he belongs shall be authorized to apply officially to the authorities that have tried the offender, and they shall retry the case and give a final and equitable decision on the same.

XVII. Chinese subjects in Mexico shall have free access to the Judicial Tribunals of the country for the defence of their legitimate rights. They shall enjoy, in this respect, the same rights and concessions enjoyed by Mexicans or by subjects of the most favoured nation.

XVIII. This Treaty shall be engrossed in the three languages, Spanish, Chinese, and English; the Spanish text shall be observed in Mexico, the Chinese text in China, and, in case of disagreement, the English version shall be decisive.

XIX. This Treaty shall remain in force for ten years, reckoned from the day of the exchange of ratifications. The High Contracting Parties can, at the expiration of that time, propose modifications by means of a notice to be given six months in advance; and if neither of them should do so, the Treaty shall continue to remain in force in all its provisions until the expiration of one year after one of the Parties has expressed to the other its intention of terminating it.

XX. This Treaty shall be ratified by the two High Contracting Parties, and the ratifications shall be exchanged at Washington as soon as possible.

In witness whereof we, the respective Plenipotentiaries, have signed this Treaty and have hereunto affixed our respective seals.

Done at Washington, in two originals in the three languages, Spanish, Chinese, and English, this 14th day of December, of the year 1899, of the Christian era, corresponding to the 12th day of the 11th moon of the 25th year of Kwang Hsü.

(L. S.) *Manuel de Azpiroz.*
(L. S.) *Wu Ting-Fang.*

NOUVEAU

RECUEIL GÉNÉRAL

DE

TRAITÉS

ET

AUTRES ACTES RELATIFS AUX RAPPORTS DE DROIT INTERNATIONAL.

CONTINUATION DU GRAND RECUEIL

DE

G. FR. DE MARTENS

PAR

Felix Stoerk

Professeur de droit public à l'Université de Greifswald
Membre de l'Institut de droit international.

DEUXIÈME SÉRIE.

TOME XXXIII.

DEUXIÈME LIVRAISON.

LEIPZIG
LIBRAIRIE DIETERICH
THEODOR WEICHER
1906.

55.

PAYS-BAS, ESPAGNE.

Déclaration modifiant la Convention du 12 juillet 1892*) réglant les affaires commerciales entre les deux pays; signée à Madrid, le 13 novembre 1899.**)

Le Gouvernement de Sa Majesté la Reine des Pays-Bas et le Gouvernement de Sa Majesté Catholique sont convenus d'introduire les modifications suivantes dans la Déclaration entre les Pays-Bas et l'Espagne, signée à Madrid, le 12 juillet 1892 réglant les relations commerciales entre les deux pays:

1. L'article „Fécules pour usage industriel et dextrine, y compris la fécule de pommes de terre," mentionné dans l'Annexe II de la Déclaration précitée, est ajouté à la liste des articles indiqués dans son Annexe I. Le maximum du droit d'entrée sur le dit article est fixé à 2 pesetas par 100 kilog.

2. Les paragraphes 2 (avec l'Annexe II) et 3 de la Déclaration du 12 juillet 1892 sont remplacés par un nouveau paragraphe, de la teneur suivante:

Les articles énumérés dans l'Annexe I, ainsi que tous les autres articles originaires de Pays-Bas et de leurs Colonies, ne seront pas assujettis à leur importation directe en Espagne et dans les îles adjacentes à des droits autres ni plus élevés que ceux auxquels seront assujettis les produits similaires de toute autre nation.

3. Les dispositons qui précèdent ne s'appliquent pas aux faveurs, actuellement accordées ou qui pourraient être accordées ultérieurement par l'Espagne au Portugal ou à la France, en vue de faciliter le commerce des frontières, en tant que ces faveurs ne seront pas accordées également à un autre État.

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*) V. **N. R. G.** 2e s. XX, 559; XXVI, 294.
**) Les ratifications ont été échangées à Madrid, le 25 mai 1900.

La présente Déclaration sortira ses effets dès qu'elle aura été ratifiée.

En foi de quoi les Plénipotentiaires respectifs, dûment autorisés, ont signé cette Déclaration, et y apposé leurs cachets.

Fait en double expédition à Madrid, le 13 novembre 1899.

(L. S.) *W. M. de Weede.*
(L. S.) *Francisco Silvela.*

56.

GRÈCE, ITALIE.

Acte conventionnel destiné à régler les affaires commerciales; signé à Athènes, le 18/30 décembre 1899.

Gazzetta Ufficiale.

Le Gouvernement de Sa Majesté le Roi des Hellènes et le Gouvernement de Sa Majesté le Roi d'Italie, désirant, en vue de l'échéance prochaine du Traité de Commerce et de Navigation en vigueur entre les deux États, fixer par un Acte Conventionel l'entente qui s'est heureusement établie entre eux au sujet de la plupart des matières jusqu'ici réglées par le dit Traité, les Soussignés, à cet effet dûment autorisés par leurs pleins pouvoirs respectifs, sont convenus de ce qui suit:

Art. I. Les Hautes Parties Contractantes réservent à une négociation ultérieure le régime mutuel en matière de pêche (pêche du poisson, pêche des éponges, pêche du corail).

II. Le vin Grec, en fûts et en futailles, payera à l'entrée en Italie un droit de douane de 12 lire au lieu de 5.77 lire, restant pour les surtaxes soumis au régime actuel.

III. Le statu quo est maintenu de part et d'autre, soit en ce qui concerne la navigation, escale et cabotage compris, soit en ce qui concerne le commerce en général et le régime douanier.

Les importations et exportations respectives continueront par conséquent à jouir du traitement de la nation la plus favorisée, sauf pour le vin Grec en fûts et en futailles, l'exception ci-dessus indiquée.

IV. Le tarif actuel est maintenu pour les articles suivants:

Soufre, brut et raffiné, le tarif général Grec;

Figues sèches et raisin sec, au tarif général Italien.

V. Le modus vivendi ainsi stipulé, sous réserve mutuelle de l'approbation Parlementaire, sera mis à exécution le 1er Janvier prochain nouveau style, et il demeurera en vigueur jusqu'à six mois après dénonciation éventuelle par l'une ou l'autre des deux Parties Contractantes.

En foi de quoi le présent Protocole, dressé en double exemplaire, a été signé par les Plénipotentiaires respectifs et revêtu de leurs cachets.

Athènes, le 18/30 décembre 1899.

(L. S.) *A. Romanos,*
Ministre des Affaires Étrangères de Sa Majesté le Roi des Hellènes.

(L. S.) *Avarna,*
Envoyé Extraordinaire et Ministre Plénipotentiaire de Sa Majesté le Roi d'Italie.

57.

JAPON, CONGO.

Déclaration d'Amitié et d'Etablissement; faite à Bruxelles, le 17 janvier 1900.*)

Publication officielle du Gouvernement de l'Etat libre du Congo.

Sa Majesté l'Empereur du Japon, et Sa Majesté le Roi des Belges, Souverain de l'État Indépendant du Congo, animés du désir d'établir des relations entre l'Empire du Japon et l' tat Indépendant du Congo, ont résolu de conclure entre eux une Déclaration d'Amitié et d'Établissement, et ont nommé, à cet effet, pour leurs Plénipotentiaires:

Sa Majesté l'Empereur du Japon, le Sieur Itchiro Motono Shôgoï, Docteur en Droit, décoré de la 5e classe de l'Ordre Impérial du Soleil Levant et de la 4e classe du Trésor Sacré, Envoyé Extraordinaire et Ministre Plénipotentiaire de Sa Majesté l'Empereur du Japon près Sa Majesté le Roi de Belges; et

Sa Majesté le Roi de Belges, Souverain de l'État Indépendant du Congo, le Sieur van Eetvelde (Baron Edm.), Commandeur de l'Ordre de Léopold, Grand Officier de la Légion d'Honneur, Grand Cordon des Ordres du Christ de Portugal, de Saint-Grégoire le Grand, Chevalier de 2e classe avec plaque de l'Ordre de la Couronne Royale de Prusse, &c., Secrétaire d'État de l'État Indépendant du Congo;

Lesquels, après s'être communiqué leurs pleins pouvoirs trouvés en bonne et due forme, sont convenus des Articles suivants:

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*) L'échange des ratifications a eu lieu à Bruxelles, le 9 juillet 1900.

Art. I. Il y aura une paix perpétuelle et amitié constante entre l'Empire du Japon et l'État Indépendant du Congo, comme aussi entre les sujets respectifs.

II. Il y aura entre les territoires des deux Hautes Parties Contractantes liberté réciproque de commerce et de navigation.

III. Pour tout ce qui concerne le droit de résidence et de voyage, la possession des immeubles, biens et effets mobiliers, de quelque espèce que ce soit, la transmission des meubles ou immeubles par succession testamentaire ou autre, et le droit de disposer, de quelque manière que ce soit, des biens mobiliers et immobiliers de toutes sortes qu'ils peuvent légalement acquérir, les sujets de chacune des deux Parties Contractantes jouiront, dans les territoires et possessions de l'autre, des mêmes priviléges, libertés, droits et ne seront soumis, sous ce rapport, à aucuns impôts ou charges plus élevés que ceux qui sont ou seront imposés aux sujets ou citoyens de la nation la plus favorisée.

IV. Les Hautes Parties Contractantes conviennent qu'en tout ce qui concerne le commerce et la navigation, tout privilége, faveur ou immunité que l'une ou l'autre des Parties Contractantes a déjà accordé ou accorderait à l'avenir au Gouvernement, aux navires ou aux sujets ou citoyens de tout autre Etat, sera étendu immédiatement et sans condition au Gouvernement, aux navires ou aux sujets de l'autre Partie Contractante, leur intention étant que le commerce et la navigation de chaque pays soient placés à tous égards par l'autre sur le pied de la nation la plus favorisée.

V. La présente Déclaration entrera en vigueur aussitôt que les ratifications en seront échangées et restera valable jusqu'à ce qu'elle soit remplacée par un Traité de Commerce et de Navigation à conclure dans les trois ans à partir de la ratification de la présente Déclaration. A défaut de Traité de Commerce et de Navigation, chacune des Hautes Parties Contractantes aura le droit, à un moment quelconque, après que deux ans se seront écoulés depuis l'entrée en vigueur de cette Déclaration, de notifier à l'autre son intention d'y mettre fin, et à l'expiration de douze mois après cette Notification, cette Déclaration cessera, et finira entièrement.

VI. La présente Déclaration sera ratifiée, et les ratifications en seront échangées à Bruxelles aussitôt que possible.

En foi de quoi les Plénipotentiaires respectifs ont signé la présente Déclaration et y ont apposé leurs cachets.

Fait à Bruxelles, en double exemplaire, le 17e jour du 1er mois de la 33e année de Meiji, correspondant au 17e jour du mois de Janvier de l'an 1900.

(L. S.) *Motono.*
(L. S.) *Baron van Eetvelde.*

58.

ESPAGNE, JAPON.

Traité de commerce; signé à Tokio, le 28 mars 1900*).

State Papers V. XCII.

His Majesty the King of Spain, and in his name Her Majesty the Queen-Regent of the Kingdom, and His Majesty the Emperor of Japan having determined, in accordance with the stipulation in Article I of the Protocol signed in Madrid the 2nd day of the 1st month of Meiji, corresponding to the 2nd January, 1897, to conclude a special Commercial Convention, based on the principles of reciprocity, relating to the importation duties to be imposed on articles and merchandize of each of the Contracting Parties on entering the country of the other, and for this purpose have named as their Plenipotentiaries, that is to say:

His Majesty the King of Spain, and in his name Her Majesty the Queen-Regent of the Kingdom, Don Luis de la Harrera y Riera, Knight of the Grand Cross of the Royal Order of Isabel la Catolica, Companion of the Royal and Distinguished Order of Carlos III, &c., His Majesty's Envoy Extraordinary and Minister Plenipotentiary at the Court of His Majesty the Emperor of Japan; and

His Majesty the Emperor of Japan, the Viscount Aoki Siuze, Junii, Grand Cross of the Rising Sun, His Majesty's Minister for Foreign Affairs;

Who, after having communicated to each other their full powers, found to be in good and due form, have agreed upon and concluded the following:

Art. I. Japanese articles of production and manufacture will not be subject on their introduction into the Peninsula of Spain, and into the Balearic and Canary Islands, to other or higher duties, whatever the name or denomination, than similar articles produced or manufactured in any other foreign nation. However, the special advantages conceded to Portugal will not be conceded to Japanese products, or any other special privileges that may be conceded to frontier States for the purpose of facilitating trade on the frontier, so long as the said advantages or privileges are exclusive and are not enjoyed by any other country.

Reciprocally, the articles of Spanish production or manufacture, or of the Peninsula, Balearic and Canary Islands, will not be subject to different or higher duties, under whatever name or denomination, than those to which articles of similar production or manufacture of any other foreign nation may be submitted.

It is mutually understood that the articles passing through, transshipped, or deposited in ports or intermediate countries, will be assimilated

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*) Les ratifications ont été echangées à Tokio, le 30 mars 1901.

with articles imported direct, so long as they are accompanied by a direct bill of lading.

No prohibition will be maintained or imposed of any kind on the importation of any articles produced or manufactured in the territories of either of the two Contracting Parties in the territories of the other, whatever the place of shipment, that is not equally inclusive of similar articles produced or manufactured in other countries; nevertheless, this regulation is not applicable to prohibitions for sanitary reasons, or occasioned by the necessity to protect the safety of persons, animals and plants of use in agriculture.

II. No higher duties or taxes will be imposed in the territory of either of the Contracting Parties, on the exportation of any article destined for the territory of the other, than those that are or will be imposed on similar articles destined for other foreign countries; nor will any prohibition be imposed on the exportation of any article of the territories of either of the two Contracting Parties destined for the territory of the other, that does not equally include the exportation of similar articles destined for any other country.

III. Notwithstanding the statement in the last part of the second clause of Article XIV of the Treaty of Friendship and General Relations signed the 2nd day of the 1st month of the 30th year of Meiji, corresponding to the 2nd January, 1897, relating to the first clause of the same Article, that it will not be applicable to the special treatment reserved by Spain for the Spanish-American Republics, and not be extended to any other country, as regards commerce and navigation, it is now agreed that this special treatment will be unconditionally applied to Japan from the day on which this Convention comes into force.

IV. The present Convention will take effect immediately after the exchange of ratifications.

Both Contracting Parties will have the right, on the completion of five years from the day on which this Convention comes into effect, to announce to the other the intention to terminate it, and twelve months after such notice the Convention shall completely terminate.

V. Six copies of this Convention shall be made: two in Japanese, two in Spanish, and two in English. In the case of any discrepancy being found between the Japanese and Spanish text, it will be decided in conformity with the English text.

VI. The present Convention shall be ratified, and the ratification thereof shall be exchanged in Tôkiô as soon as possible.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seal of their arms.

Done at Tôkiô, the 28th of the 3rd month of the 33rd year of Meiji, corresponding to the 28th March, 1900.

(L. S.) *Luis de la Harrera y Riera.*
(L. S.) *Vicomte Aoki.*

59.

BOLIVIE, PEROU.

Arrangement concernant les certificats d'origine; signé à La Paz, le 3 juillet 1900.

In the city of La Paz on the 3rd day of the month of July, 1900, at the Ministry for Foreign Affairs, his Excellency the Minister for that Department, Dr. Don Eliodoro Villazon, and his Excellency the Envoy Extraordinary and Minister Plenipotentiary of Peru, Dr. Don Amador F. del Solar, met with the object of arranging for the concession of the greatest facilities for the free commercial intercourse between the two countries in accordance with the Treaty in force of the 7th June, 1881; and, after exchanging ideas on the reciprocal convenience of establishing in a precise manner the Consular requisites for proving the origin of the produce or manufactures of each of the two countries, agreed upon the following:

Art. I. To prove the nationality of the produce or manufactures of Peru in Bolivia or vice versâ, the certificates of origin or nationality issued by the respective Consuls shall be deemed sufficient.

II. The Consuls of either nation shall only levy as a commercial Consular fee for the above-mentioned certificates the fixed sum of 2 soles of 24d.

III. The provisions of the preceding Articles shall not hinder the request for the production of Consular invoices as well as all other documents which, according to the respective Regulations, may be necessary for the preparation of commercial statistics or for any other object. The production of these shall not, however, give rise to any further commercial charge.

In witness whereof their Excellencies the Minister for Foreign Affairs and the Minister Plenipotentiary of Peru, have sealed and signed, in duplicate, the present Agreement.

(L. S.) *Eliodoro Villazon.*
(L. S.) *Amador F. del Solar.*

60.

GRANDE-BRETAGNE.

Loi anglaise portant quelques modifications à la Loi sur la marine marchande; du 6 août 1900.

An Act to amend the Merchant Shipping Act, 1894, with respect to the Liability of Shipowners and others. 6th August 1900 (63 & 64 Vict., c. 32.)

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. The limitation of the liability of the owners of any ship set by section 503 of „The Merchant Shipping Act, 1894," in respect of loss of or damage to vessels, goods, merchandize, or other things, shall extend and apply to all cases where (without their actual fault or privity) any loss or damage is caused to property or rights of any kind, whether on land or on water, or whether fixed or movable, by reason of the improper navigation or management of the ship.

2. (1.) The owners of any dock or canal, or a harbour authority or a conservancy authority, as defined by „The Merchant Shipping Act, 1894," shall not, where without their actual fault or privity any loss or damage is caused to any vessel or vessels, or to any goods, merchandize, or other things whatsoever on board any vessel or vessels, be liable to damages beyond an aggregate amount not exeeding 8*l.* for each ton of the tonnage of the largest registered British ship which, at the time of such loss or damage occurring, is, or within the period of five years previous thereto has been, within the area over which such dock or canal owner, harbour authority, or conservancy authority, performs any duty or exercises any power. A ship shall not be deemed to have been within the area over which a harbour authority or a conservancy authority performs any duty, or exercises any powers, by reason only that it has been built or fitted out within such area, or that it has taken shelter within or passed trough such area on a voyage between two places both situate outside that area, or that it has loaded or unloaded mails or passengers within that area.

(2.) For the purpose of this section the tonnage of ships shall be ascertained as provided by section 503, sub-section 2, of „The Merchant Shipping Act, 1894," and the register of any ship shall be sufficient evidence that the gross tonnage and the deductions therefrom and the registered tonnage are as therein stated;

(3.) Section 504 of „The Merchant Shipping Act, 1894", shall apply to this section as if the words „owner of a British or foreign ship" included a harbour authority and a conservancy authority, and the owner of a canal or of a dock.

(4.) For the purpose of this section the term „dock" shall include wet doks and basins, tidal docks and basins, locks, cuts, entrances, dry docks, graving docks, gridirons, slips, quays, wharves, piers, stages, landing-places, and jetties.

(5.) For the purposes of this section the term „owners of a dock or canal" shall include any person or authority having the control and management of any dock or canal, as the case may be.

(6.) Nothing in this section shall impose any liability in respect of any such loss or damage on any such owners or authorithy in any case where no such liability would have existed if this Act had not passed.

3. The limitation of liability under this Act shall relate to the whole of any losses and damages which may arise upon any one distinct occasion, although such losses and damages may be sustained by more than one person, and shall apply whether the liability arises at common law or under any general or private Act of Parliament, and notwithstanding anything contained in such Act.

4. This Act may be cited as The Merchant Shipping (Liability of Shipowners and others) Act, 1900.

5. This Act shall be construed as one with „The Merchant Shipping Act, 1894," and that Act and „The Merchant Shipping Act, 1897," „The Merchant Shipping (Exemption from Pilotage) Act, 1897," „The Merchant Shipping (Liability of Shipowners) Act, 1898," „The Merchant Shipping (Mercantile Marine Fund) Act, 1898," and this Act, may be cited together as „The Merchant Shipping Acts, 1894 to 1900."

61.

MEXIQUE, NICARAGUA.

Traité d'Amitié et de Commerce; signé à Mexico, le 6 novembre 1900.*)

Annales du Commerce extérieur 1904.

Le Gouvernement du Mexique et le Gouvernement du Nicaragua, désireux de resserrer les relations cordiales actuellement existantes entre les deux Pays, ont décidé de conclure un traité d'amitié et de commerce, et ont nommé à cet effet pour leurs plénipotentiaires:

Le Président des Etats-Unis du Mexique:

Don Maurice Wolheim, ancien Ministre du Mexique au Japon;

Et Le Président de la République de Nicaragua:

Don Louis Corca, Envoyé Extraordinaire et Ministre Plénipotentiaire près le Gouvernement du Mexique;

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*) Les ratifications ont été échangées à Mexico, le 11 juillet 1903. — Pour le texte original en espagnol cf. **N. R. G.** 2e s. T. XXXI. 23.

Lesquels, après avoir dûment vérifié leurs pleins pouvoirs respectifs, trouvés en bonne et due forme, ont stipulé ce qui suit:

Art. Ier. Les citoyens respectifs des deux Hautes Parties contractantes seront entièrement assimilés aux Nationaux, en tout ce qui concerne l'exercice du Commerce et de l'Industrie, le payement des impôts et le droit d'acquérir et de disposer de toute espèce de biens mobiliers par achat, vente, donation, échange, testament ou succession ab intestat.

Pour tout le reste, ils seront assimilés aux sujets de la nation étrangère la plus favorisée.

Art. 2. Les produits du sol et de l'industrie du Nicaragua, quelle qu'en soit la provenance, et les manchandises de toute origine provenant dudit Etat, seront admis au Mexique aux mêmes conditions que les produits similaires de la nation étrangère la plus favorisée, sans être soumis à des droits autres on plus élevés, quelle qu'en soit la dénomination.

De même, les produits du sol et de l'industrie du Mexique, quelle qu'en soit la provenance, et les marchandises de toute origine provenant du Mexique, seront admis au Nicaragua aux mêmes conditions que les produits similaires de la nation étrangère la plus favorisée, sans être soumis à des droits autres ou plus élevés, quelle qu'en soit la dénomination.

Art. 3. Les deux Hautes Parties contractantes se garantissent réciproquement le traitement de la nation la plus favorisée en tout ce qui concerne le transit, l'exportation, la navigation et toutes opérations relatives au sauvetage des navires.

Art. 4. Aucune prohibition ou restriction à l'importation ou à l'exportation ne sera applicable au commerce réciproque des deux Pays qui ne soit également étendue aux autres nations, sauf pour raisons sanitaires, pour prévenir la propagation d'épizooties ou la destruction de récoltes, ou bien par suite d'événements de guerre.

Art. 5. Il est convenu entre les deux Hautes Parties contractantes que la limite de juridiction dans les eaux territoriales sur les côtes respectives s'étend à 20 kilomètres à compter de la laisse de basse mer; cette clause n'est applicable qu'à la surveillance de la Douane, à l'exécution des ordonnances, des douanes, des mesures tendant à prévenir la contrebande; elle ne pourra jamais être invoquée dans toutes les autres questions de droit international maritime.

Art. 6. Les citoyens respectifs des deux Hautes Parties contractantes jouiront, sur le territoire de l'autre et dans les mêmes conditions, de la protection accordée aux nationaux ou aux citoyens de la nation la plus favorisée, en tout ce qui concerne la propriété des marques de commerce et de fabrique.

De même, les citoyens de l'une des Hautes Parties contractantes ayant des diplômes valable dans leur Pays, pourront exercer leur profession sur le territoire de l'autre dans les limites et conditions prévues par les lois du Pays.

Art. 7. Les citoyens de chacune des Hautes Parties contractantes jouiront sur le territoire de l'autre, en matière de commerce, de naviga-

tion, d'industrie et d'impôts, des privilèges, exemptions et faveurs accordés actuellement ou à l'avenir à la nation la plus favorisée.

Art. 8. Les citoyens de chacun des deux États jouiront respectivement dans l'autre d'une entière liberté de conscience et pourront exercer leur culte de la manière que leur permettront la constitution et les lois du pays.

Art. 9. Les citoyens respectifs des deux Hautes Parties contractantes jouiront, sur le territoire de l'autre, de la plus entière et constante protection pour leurs personnes, leurs domiciles et leurs biens.

Ils n'auront droit à aucune indemnité pour dommages causés, en temps d'insurrection ou de guerre civile, par les insurgés ou les tribus ou hordes sauvages soustraites à l'obéissance du Gouvernement, sauf dans le cas de négligence ou de manque de surveillance de la part des autorités ou de leurs agents.

Art. 10. Les Hautes Parties contractantes conviennent d'accorder réciproquement à leurs agents diplomatiques et consulaires les mêmes droits, privilèges et immunités dont jouiraient, actuellement ou à l'avenir, et dans les mêmes circonstances, les agents diplomatiques et consulaires de même rang de la nation la plus favorisée.

Art. 11. En cas de décès d'un citoyen de l'une des Hautes Parties contractantes sur le territoire de l'autre, s'il ne se trouve pas, sur le lieu du décès, un héritier connu, présent ou représenté, ou un exécuteur testamentaire institué par le défunt, ou un tuteur, si les héritiers sont mineurs, les agents consulaires respectifs auront le droit de prendre, pour la conservation et l'administration de la succession, toutes mesures permises actuellement ou à l'avenir aux agents consulaires de la nation la plus favorisée.

Art. 12. Toute difficulté relative à l'interprétation, à l'application ou à l'exécution du présent Traité, qui ne pourra être résolue à l'amiable, sera soumise à un tribunal d'arbitrage. Chacune des Hautes Parties contractantes désignera un arbitre; ces deux arbitres en nommeront un troisième. En cas de désaccord sur le choix de ce dernier, le troisième arbitre sera nommé par le Gouvernement d'un Tiers désigné par les deux Hautes Parties contractantes.

Art. 13. Les Hautes Parties contractantes, animées du désir d'éviter tout ce qui pourrait troubler leurs relations amicales, conviennent que leurs représentants diplomatiques n'interviendront point officiellement, si ce n'est pour obtenir, s'il y a lieu, un arrangement amical, au sujet des réclamations ou plaintes des particuliers concernant des affaires qui sont du ressort de la justice civile ou pénale, et qui seront déjà soumises aux tribunaux du pays, à moins qu'il ne s'agisse de déni de justice, de retards en justice contraires à l'usage ou à la loi, ou de l'inexécution d'un jugement ayant l'autorité de chose jugée ou, enfin, de cas dans lesquels, après avoir épuisé les moyens légaux, il y a violation évidente des traités existant entre les deux Parties contractantes ou des règles du droit international tant public que privé, généralement reconnues par les nations civilisées.

Art. 14. Le présent Traité entrera en vigueur un mois après l'échange des ratifications et demeurera obligatoire jusqu'à l'expiration de six mois, à partir du jour où l'une des Hautes Parties contractantes l'aura dénoncé.

Le présent Traité sera ratifié et les ratifications seront échangées à Mexico, dans le plus bref délai possible, après l'accomplissement des formalités constitutionnelles en vigueur dans les deux Pays.

Fait en double original, à Mexico, le 6 novembre 1900.

(L. S.) *M. Wolheim.*
(L. S.) *Louis F. Corca.*

62.

FRANCE, SALVADOR.

Convention commerciale; signée à Paris, le 9 janvier 1901.*)

Le Président de la République Française et le Président de la République du Salvador, également animés du désir de favoriser le développement des relations commerciales entre les deux pays, ont décidé de conclure une Convention à cet effet et ont nommé pour Leurs Plénipotentiaires respectifs:

Le Président de la République française:

M. Th. Delcassé, Député, Ministre des Affaires étrangères de la République Française;

Et le Président de la République du Salvador:

M. le docteur Rafael Zaldívar, Envoyé Extraordinaire et Ministre Plénipotentiaire de la République du Salvador près le Président de la République Française, Grand-Officier de l'Ordre de la Légion d'honneur;

Lesquels, après s'être communiqué leurs pleins pouvoirs trouvés en bonne et due forme, sont convenus de ce qui suit:

Art. I. Les cafés et autres denrées énumérées dans le Tableau A, annexé à la présente Convention, originaires de la République du Salvador, bénéficieront, à leur importation en France, en Algérie, dans les colonies et possessions françaises, dans les pays de protectorat de l'Indo-Chine et de la Tunisie, des taxes de douane les plus réduites applicables aux produits similaires de toute autre origine étrangère.

Art. II. Réciproquement, les produits naturels et fabriqués, originaires de France, d'Algérie, des colonies et possessions françaises, des pays de protectorat de l'Indo-Chine et de la Tunisie, bénéficieront, à leur impor-

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*) Les ratificatios ont été échangées à Paris, le 15 janvier 1902.

tation dans la République du Salvador, des taxes de douane les plus réduites applicables aux produits similaires de toute autre origine étrangère.

Le Tarif d'évaluation (Tarifa de aforo) actuellement en vigueur au Salvador sera, en ce qui concerne les produits français énumérés au Tableau B*) annexé à la présente Convention, abaissé de façon que ces produits ne soient, dans aucun cas, passibles, à leur entrée au Salvador, d'évaluations officielles plus élevées que celles stipulées audit Tableau B.

Art. III. Les certificats d'origine qui seraint exigés pour l'admission des marchandises à un régime douanier de faveur seront visés par les Consuls français et par les Consuls salvadoriens en gratuité des taxes consulaires de Chancellerie.

Art. IV. La présente Convention sera ratifiée par les deux Gouvernements aussitôt que faire se pourra et les ratifications en seront échangées à Paris. Elle entrera en vigueur immédiatement après l'échange des ratifications et demeurera exécutoire jusqu'à l'expiration d'une année à partir du jour où l'une des Hautes Parties Contractantes aura notifié son intention d'en faire cesser les effets.

En foi de quoi, les Plénipotentiaires mentionnés ci-dessus ont signé la présente Convention et y ont apposé leurs cachets.

Fait en double exemplaire à Paris, le 9 janvier 1901.

(L. S.) (Signé) *Delcassé.*
(L. S.) (Signé) *Rafael Zaldívar.*

63.

BELGIQUE, CORÉE.

Traité d'amitié, de commerce et de navigation, signé à Séoul le 23 mars 1901.**)

Recueil des traités du XXe siècle.

Sa Majesté le Roi des Belges et Sa Majesté l'Empereur de Corée, animés du désir d'établir entre la Belgique et la Corée des relations d'amitié et de commerce, ont résolu de conclure dans ce but un Traité et ont, à cet effet, nommé pour Leurs Plénipotentiaires, savoir:

Sa Majesté le Roi des Belges:

M. Léon Vincart, Chevalier de l'Ordre de Léopold de Belgique, Commandeur de l'Ordre du Nichan-Iftikhar de Tunis, Chevalier de l'Ordre de la Couronne d'Italie, chargé d'une mission spéciale auprès de Sa Majesté l'Empereur de Corée;

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*) Non imprimé.
**) Les ratifications ont été échangées à Séoul, le 17 octobre 1901.

Sa Majesté l'Empereur de Corée:

Pak Tjai Soun, Ministre des Affaires Etrangères et Plénipotentiaire spécial, Dignitaire de deuxième rang, premier degré, Conseiller du Grand Conseil d'Etat, Ministre de la Guerre intérimaire, Directeur général de l'Hôtel des Monnaies, Décoré de l'Ordre du Mérite de troisième classe du Thai-Kuk;

Lesquels, après s'être communiqué leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus des dispositions suivantes:

Art. 1. Il y aura paix et amitié perpétuelles entre Sa Majesté le Roi des Belges d'une part, et Sa Majesté l'Empereur de Corée d'autre part, ainsi qu'entre les ressortissants des deux Etats, sans exception de personnes ni de lieux. Les Belges et les Coréens jouiront, dans les territoires relevant respectivement des Hautes Parties Contractantes, d'une pleine et entière protection pour leurs personnes et leurs propriétés.

Art. 2. § 1. Chacune des Hautes Parties Contractantes pourra nommer un représentant diplomatique qui aura la faculté de résider d'une façon permanente ou temporaire dans la capitale de l'autre, et aussi désigner un consul général, des consuls ou vice-consuls, qui résideront dans les villes ou ports de l'autre Etat, ouverts au commerce étranger.

Les agents diplomatiques ou consulaires des deux Etats jouiront, dans le pays de leur résidence, de tous les avantages et immunités dont jouissent les agents diplomatiques et consulaires des autres Etats.

§ 2. Les agents diplomatiques et consulaires, ainsi que les personnes attachées à leurs missions, pourront librement voyager sur tout le territoire du pays de leur résidence. Les autorités coréennes fourniront aux agents belges voyageant en Corée, des passeports et une escorte suffisante pour les protéger en cas de nécessité.

§ 3. Les agents consulaires des deux pays exerceront leurs fonctions après avoir été dûment autorisés par le Souverain ou le Gouvernement du pays de leur résidence. Il leur est interdit de se livrer au commerce.

§ 4. Dans le cas où l'une des Hautes Parties Contractantes ne croirait pas devoir user de la faculté, qui est donnée à chacune d'elles, de nommer des consuls dans les ports de l'autre, elle pourra en confier les fonctions aux agents d'une puissance tierce.

Art. 3. § 1. En ce qui concerne leurs personnes et leurs biens, les Belges en Corée relèveront exclusivement de la juridiction belge. Les procès qu'un Belge ou un étranger intenteraient en Corée contre un Belge seront jugés par l'autorité consulaire belge, sans que l'autorité coréenne puisse aucunement intervenir.

§ 2. Tout Belge mis en cause par les autorités coréennes ou par un sujet coréen sera, de même, en Corée, jugé par l'autorité consulaire belge.

§ 3. Tout Coréen, mis en cause par les autorités belges ou par un Belge, sera jugé par l'autorité coréenne.

§ 4. Les Belges qui commettraient en Corée des délits ou des crimes seront punis par l'autorité belge compétente et conformément à la loi belge.

§ 5. Les crimes ou délits dont un Coréen se rendrait coupable en Corée au préjudice d'un Belge seront jugés et punis par les autorités coréennes et conformément à la loi coréenne.

§ 6. Toute plainte dirigée contre un Belge et susceptible d'entraîner une peine pécuniaire ou la confiscation, pour violation soit du présent Traité, soit des Règlements y annexés ou des Règlements futurs à intervenir, devra être portée devant l'autorité consulaire belge: les amendes et confiscations prononcées demeureront au profit du Gouvernement coréen.

§ 7. Les marchandises belges saisies par les autorités coréennes, dans un port ouvert, seront mises sous scellés, conjointement par les autorités des deux pays. Les autorités coréenes en auront la garde jusqu'à ce que l'autorité consulaire belge ait rendu sa décision. Si cette décision est en faveur du propriétaire des marchandises, celles-ci seront immédiatement mises à la disposition du consul. En tout état de cause, le propriétaire pourra toujours rentrer en possession de ses marchandises, à la condition d'en déposer la valeur entre les mains des autorités coréennes, en attendant la décision de l'autorité consulaire belge.

§ 8. Dans toutes les causes, soit civiles, soit pénales, portées devant un tribunal coréen ou un tribunal consulaire belge en Corée, un fonctionnaire appartenant à la nationalité du demandeur ou plaignant, et dûment autorisé à cet effet, pourra toujours assister à l'audience et sera traité avec les égards convenables. Il pourra, quand il le jugera nécessaire, citer, interroger contradictoirement les témoins, protester contre la procédure et la sentence.

§ 9. Si un Coréen, prévenu d'une infraction aux lois de son pays, se réfugie dans une maison occupée par un Belge ou à bord d'un navire de commerce belge, les autorités coréennes s'adresseront au consul de Belgique. Celui-ci prendra les mesures nécessaires pour le faire arrêter et pour le remettre entre les mains des autorités coréennes à qui il appartient de le juger. Aucun fonctionnaire ni agent coréen ne pourra, sans la permission du consul de Belgique, pénétrer dans les magasins ou la demeure d'un Belge, à moins que le résident belge ou le commandant du navire n'y donne son consentement.

§ 10. Les autorités coréennes arrêteront et remettront à l'autorité consulaire belge compétente, sur sa requête, tout Belge prévenu de crime ou délit et tout déserteur d'un navire belge.

§ 11. Le droit de juridiction reconnu aux consuls belges sur leurs nationaux en Corée, sera abandonné quand, dans l'opinion du Gouvernement belge, les lois et la procédure coréennes auront été modifiées et réformées de telle sorte qu'il n'y ait plus d'objections à placer les Belges sous la juridiction territoriale et quand la magistrature coréenne présentera, aux points de vue de l'indépendance et des connaissances juridiques, les mêmes garanties que les magistrats belges.

Art. 4. § 1. Les ports et localités suivants sont ouverts au commerce belge à partir du jour de la mise en vigueur du Traité:

Chemoulpo, Wonsan, Fusan, Tjin-Nam-Hpo, Kounsan, Mok-Hpo, Ma-San-Hpo, Syeng-Tjin et Hpyeng-Yang et les villes de Séoul et de Yang-Houa-Tjin.

Dans le cas où toutes les puissances qui ont déjà conclu des traités avec la Corée, ou qui viendraient à en conclure ultérieurement, consentiraient à renoncer au droit, conféré par ces traités à leurs nationaux, d'ouvrir des établissements de commerce dans la ville de Seoul, ce droit ne serait pas réclamé en faveur des commerçants belges.

§ 2. Dans les localités susnommées, les Belges auront le droit de louer ou d'acheter des terrains et des maisons, d'élever des constructions et d'établir des magasins et des manufactures. Ils auront la liberté de pratiquer leur religion. Tous les arrangements relatifs au choix, à la délimitation, à l'aménagement des concessions étrangères, ainsi qu'à la vente des terrains, dans les différents ports ou villes ouverts au commerce étranger, seront concertés entre les autorités coréennes et les autorités étrangères compétentes.

§ 3. Les emplacements affectés aux concessions seront achetés aux propriétaires et aménagés pour leur nouvelle destination par les soins du Gouvernement coréen: le remboursement des frais d'expropriation et d'aménagement sera prélevé, par privilège, sur le produit de la vente des terrains. Une redevance annuelle, dont le montant sera fixé d'un commun accord, par l'administration coréenne et les autorités étrangères, sera payée à l'autorité locale qui en retiendra une part, à titre de compensation pour la taxe foncière; le reste de cette redevance ainsi que le reliquat provenant de la vente des terrains constitueront un fonds municipal, administré par un conseil dont la constitution sera ultérieurement réglée par une entente entre les autorités coréennes et les autorités étrangères.

§ 4. Les Belges pourront louer ou acheter des terrains et des maisons au delà des limites des concessions étrangères et dans une zone de dix lis de Corée autour de ces limites. Mais les terrains ainsi occupés seront soumis aux règlements locaux et aux taxes foncières dans les conditions que les autorités coréennes croiront devoir fixer.

§ 5. Dans chacune des localités ouvertes au commerce, les autorités coréennes affecteront gratuitement, à la sépulture des Belges, un terrain convenable sur lequel aucune redevance, taxe ni impôt ne sera établi et dont l'administration sera confiée au conseil municipal susmentionné.

§ 6. Les Belges pourront circuler librement dans une zone de cent lis autour des ports et des villes ouverts au commerce, ou dans telles limites que les autorités compétentes des deux pays auront déterminées d'un commun accord.

Les Belges pourront également, à la seule condition d'être munis de passeports, se rendre dans toutes les parties du territoire coréen et y voyager, sans pouvoir, toutefois, ouvrir des magasins ni créer des établissements commerciaux permanents dans l'intérieur. Les commerçants belges pourront y transporter et vendre des marchandises de toute espèce, sauf

les livres et publications interdits par le Gouvernement coréen, et acheter les produits indigènes.

Les passeports seront délivrés par les consuls et revêtus de la signature ou du sceau de l'autorité locale. Ils devront être produits à toute réquisition.

Si le passeport est en règle, le porteur pourra circuler librement, et il lui sera loisible de se procurer les moyens de transport nécessaires. Le Belge qui voyagerait sans passeport au delà des limites susmentionnées ou qui, dans l'intérieur, commettrait quelque délit ou crime sera arrêté et remis au plus prochain consul de Belgique pour être puni. Une amende de 100 piastres mexicaines au maximum, avec ou sans emprisonnement d'un mois au plus, pourra être prononcée contre toute personne voyageant sans passeport en dehors de limites fixées.

§ 7. Les Belges en Corée seront soumis aux réglements municipaux, de police ou autres, qui seront établis, de concert, par les autorités compétentes des deux pays, dans l'intérêt du bon ordre et de la paix publique et ils seront passibles des peines à prononcer par leur consul.

Art. 5. § 1. Dans toute localité ouverte au commerce étranger, les Belges pourront, après acquittement des droits inscrits au tarif ci-annexé, importer d'un port étranger ou d'un port coréen ouvert, vendre ou acheter, quelle que soit la nationalité de l'acheteur ou du vendeur, exporter à destination d'un port étranger ou d'un port coréen ouvert toutes espèces de marchandises non prohibées par le présent Traité. Ils auront pleine liberté de faire, sans l'intervention de l'autorité coréenne ni d'autres intermédiaires, tous actes de commerce avec les sujets coréens ou autres; ils pourront également, et en toute liberté, se livrer à l'industrie.

§ 2. Les propriétaires ou consignataires de toute marchandise imimportée d'un port étranger, et pour laquelle le droit du tarif visé ci-dessus aura été acquitté, pourront obtenir un certificat de drawback, pour le montant du droit d'importation, si toutefois la marchandise est réexportée vers un port étranger dans un délai de treize mois coréens à dater de l'importation et pourvu que les enveloppes en soient reconnues intactes. Ces drawbacks seront remboursés sur demande par la douane coréenne ou reçus à l'acquit des droits dans tout port coréen ouvert.

§ 3. Les droits acquittés sur des marchandises coréennes, expédiées de port ouvert à port ouvert en Corée, seront restitués au port d'expédition, si l'intéressé produit un certificat des douanes attestant l'arrivée des marchandises au port de destination, ou s'il peut être dûment prouvé qu'elles ont péri par fortune de mer.

§ 4. Toutes les marchandises importées par des Belges en Corée, et pour lesquelles les droits inscrits au tarif ci-annexé auront été acquittés, pourront être réexpédiées dans tout autre port coréen ouvert, en franchise de droits, et si elles sont transportées dans l'intérieur, elles ne seront, sur quelque point du pays que ce soit, soumises à aucune taxe additionnelle ni à aucun droit d'accise ou de transit. De la même manière, le transport vers les ports ouverts de tous les produits coréens, destinés à l'expor-

tation, se fera en pleine franchise, et ces produits ne seront, soit au lieu de production, soit durant le trajet d'un point quelconque du pays vers un port ouvert, soumis au payement d'aucune taxe ni d'aucun droit d'accise au de transit.

§ 5. Le Gouvernement coréen pourra affréter des navires belges pour le transport des marchandises ou des voyageurs vers les ports coréens non ouverts; les sujets coréens jouiront de la même faculté, après autorisation dess autorités locales.

§ 6. Lorsque le Gouvernement coréen aura lieu de craindre une disette dans l'Empire, S. M. l'Empereur de Corée pourra, par décret, interdire temporairement l'exportation des grains pour l'étranger par un ou par tous les ports coréens ouverts; cette prohibition deviendra obligatoire pour les Belges en Corée un mois après la date de la communication officielle faite par l'autorité coréenne au consul de Belgique du port intéressé, mais elle ne restera en vigueur que le temps strictement nécessaire.

§ 7. Tout navire de commerce belge payera des droits de tonnage à raison de 30 cents mexicains par tonneau de registre. Cette somme une fois payée, il sera permis au navire de se rendre dans tout port coréen ouvert, durant une période de quatre mois, sans acquitter d'autre taxe. Le produit des droits de tonnage sera affecté à la construction de phares, de balises et de bouées, à l'éclairage et au balisage des côtes de Corée, principalement aux approches des ports ouverts, à l'aménagement et à l'amélioration des mouillages.

Aucun droit de tonnage ne sera perçu sur les bateaux employés dans les ports ouverts au chargement ou au déchargement des cargaisons.

§ 8. Pour assurer l'exécution pleine et entière du présent Traité, il est convenu que le Tarif et les Règlements commerciaux ci-après insérés entreront en vigueur en même temps que le Traité lui-même. Les autorités compétentes des deux pays pourront, quand elles le jugeront opportun, reviser ces Règlements en vue d'y introduire, d'un commun accord, telles modifications ou additions dont l'expérience démontrerait l'utilité.

Art. 6. § 1. Tout Belge qui introduirait ou tenterait d'introduire en fraude des marchandises dans un port ou dans une localité non ouverts au commerce étranger en Corée, encourra, outre la confiscation, une amende égale au double de la valeur des marchandises.

§ 2. Les autorités coréennes pourront arrêter tout Belge prévenu de contrebande ou de tentative de ce délit, à charge de le remettre sans retard entre les mains du consul de Belgique compétent pour le juger. Elles pourront également saisir les marchandises et le conserver jusqu'au jugement définitif de l'affaire.

Art. 7. § 1. Si un navire belge fait naufrage ou s'échoue sur les côtes de Corée, les autorités locales prendont immédiatement les mesures nécessaires pour défendre contre le pillage le navire et la cargaison, pour protéger contre tout mauvais traitement l'équipage et les passagers et pour leur prêter aide et assistance. Elles donneront aussitôt avis du naufrage

au consul de Belgique le plus voisin et fourniront, le cas échéant, aux naufragés le moyen de gagner le port ouvert le plus proche.

§ 2. Toutes les dépenses faites par le Gouvernement coréen pour porter secours à des Belges naufragés, pour leur fournir des vêtements, des vivres, des soins médicaux et des moyens de transport, pour recueillir les corps des décédés et procéder à leurs funérailles, seront remboursées par le Gouvernement belge.

§ 3. Le Gouvernement belge ne sera pas garant du remboursement des dépenses faites pour le sauvetage et la conservation des navires naufragés ou de leur cargaison. Ce remboursement reste garanti par la valeur des objets sauvés et devra être effectué par les parties intéressées, lors de la remise desdits objets.

§ 4. Le Gouvernement coréen ne réclamera aucun remboursement, ni pour les dépenses de ses agents, fonctionnaires locaux ou employés de police qui auront procédé au sauvetage, ni pour les frais de voyage des agents chargés d'escorter les naufragés, ni pour les frais de correspondance officielle. Ces dépenses resteront à la charge du Gouvernement coréen.

§ 5. Tout navire marchand belge que le mauvais temps, le manque de vivres ou de combustible obligerait à relâcher dans un port de Corée non ouvert, pourra y faire des réparations et s'y procurer les provisions nécessaires. Les dépenses seront payées par le capitaine du navire.

Art. 8. § 1. Les autorités belges et les Belges en Corée pourront engager des sujets coréens à titre de lettré, d'interprète, de serviteur ou à tout autre titre licite, sans que les autorités coréennes puissent y mettre obstacle. Réciproquement, les Belges pourront être engagés dans les mêmes conditions au service du Gouvernement ou des sujets coréens.

§ 2. Les Belges qui se rendraient en Corée pour y étudier ou y professer la langue écrite ou parlée, les sciences, les lois ou arts, devront, en témoignage des sentiments de bonne amitié dont sont animées les Hautes Parties Contractantes, recevoir toujours aide et assistance. Les Coréens qui se rendront en Belgique y jouiront des mêmes avantages.

Art. 9. A dater du jour de l'entrée en vigueur du présent Traité, le Gouvernement belge, ses agents et ses ressortissants jouiront de tous les privilèges, immunités et avantages dont jouissent ou jouiraient plus tard les gouvernements, agents ou ressortissants de toute autre Puissance.

Art. 10. Dix ans après l'entrée en vigueur du présent Traité chacune des Hautes Parties Contractantes pourra, à charge de prévenir l'autre Partie un an à l'avance, demander une revision du Traité ou des Tarifs y annexés en vue d'y introduire, d'un commun accord, telles modifications dont l'expérience aurait démontré l'utilité,

Dans le cas où la Corée modifierait ses traités avec le consentement de toutes les Puissances avec lesquelles elle est en relations officielles, la Belgique devra également y consentir, même avant l'expiration du présent Traité.

Art. 11. § 1. Le présent Traité est rédigé en français et en chinois. Les deux textes ont été soigneusement confrontés et il a été reconnu

qu'ils avaient le même sens. Il est convenu toutefois que le texte français ferait foi si quelque divergence venait à se produire dans l'interprétation.

§ 2. Toutes les communications officielles adressées aux autorités coréennes par les autorités belges seront provisoirement accompagnées d'une traduction en langue chinoise.

Art. 12. Les Hautes Parties Contractantes conviennent de recourir à l'arbitrage pour toutes les contestations auxquelles pourrait donner lieu l'interprétation ou l'exécution du présent Traité.

Art. 13. Le présent Traité sera ratifié par Sa Majesté le Roi des Belges et par Sa Majesté l'Empereur de Corée et revêtu de leurs signatures et de leurs sceaux respectifs; les ratifications seront échangées à Séoul, dans le délai d'un an, ou plus tôt, si faire se peut. Il sera promulgué par les soins des deux Gouvernements et entrera en vigueur le jour de l'échange des ratifications.

En foi de quoi les Plénipotentiaires respectifs ont signé le présent Traité, fait en triple exemplaire, et y ont apposé leurs cachets.

Fait à Séoul, le vingt-trois mars (1901) mil neuf cent et un, correspondant au vingt-troisième jour du troisième mois de la cinquième année de Koing-Mou.

(L. S.) (Signature de *Pak Tjai Soun.*)
(L. S.) *Léon Vincart.*

Règlement applicable au commerce belge en Corée.

I. Entrée et sortie des navires.

1° Dans les quarante-huit heures (dimanches et jours de fête non comptés) qui suivront l'arrivée d'un bâtiment belge dans un port coréen, le capitaine devra remettre aux autorités douanières coréennes un récépissé du consul de Belgique attestant que les papiers du bord ont été déposés au consulat. Il fera, en même temps, la déclaration d'entrée de son navire, en indiquant, par écrit, son nom et celui de son bâtiment, le port d'où il vient, le nombre et, si la demande lui en est faite, les noms des passagers, le tonnage, le nombre des hommes d'équipage. Cette déclaration sera certifiée sincère et véritable par le capitaine et signée par lui. Il déposera, en même temps, une expédition de son manifeste indiquant les marques, numéros et contenus des colis, tels qu'ils sont portés aux connaissements et le nom des consignataires. Le capitaine attestera l'exactitude du manifeste et le signera. Cette déclaration ainsi dressée, les autorités douanières délivreront un permis d'ouvrir les écoutilles, qui sera montré à bord au préposé de la douane. Le fait de rompre charge sans ce permis rendra le capitaine passible d'une amende de cent dollars mexicains au plus.

2° Si une erreur est constatée dans le manifeste, elle pourra être corrigée sans frais, dans les vingt-quatre heures (dimanches et jours de

fête non comptés) de la déclaration; mais, ce délai expiré, il sera perçu, pour tout changement ou toute déclaration supplémentaire, un droit de cinq dollars mexicains.

3° Tout capitaine qui négligerait de faire la déclaration susdite dans les délais fixés sera passible d'une amende de cinquante dollars mexicains par chaque jour de retard.

4° Tout navire belge qui séjournerait dans le port moins de quarante-huit heures (dimanches et jours de fête non comptés) et n'ouvrirait pas ses écoutilles, ou que soit le mauvais temps, soit le manque de vivres forcerait à relâcher, ne sera soumis ni à la déclaration ni au payement des droits de tonnage tant qu'il ne fera pas opération de commerce.

5° Tout capitaine qui voudra prendre la mer remettra aux autorités douanières un manifeste d'exportation analogue au manifeste d'importation. Les autorités douanières délivreront alors un certificat de congé et restitueront le récépissé consulaire des papiers du bord. Ces documents seront présentés au consulat afin de permettre au capitaine de retirer ses papiers de bord.

6° Tout capitaine qui pendrait la mer sans faire la déclaration susdite, sera passible d'une amende de deux cents dollars mexicains au maximum.

7° Les navires à vapeur belges pourront entrer et sortir le même jour sans être astreints à produire de manifeste d'importation, si ce n'est pour les seules marchandises débarquées ou transbordées dans le port.

II. Débarquement et embarquement de cargaison. Payement des droits.

1° Tout importateur de marchandises qui désire les débarquer adressera, à cet effet, à la douane, une demande, certifiée sincère, indiquant son nom, le nom du navire employé au transport, les marques, les numéros, le contenu et la valeur des colis. L'autorité douanière pourra exiger la production de la facture pour toute consignation de marchandises. Faute de la produire et à défaut d'une explication suffisante, le propriétaire ne pourra débarquer ses marchandises qu'après payement du double des droits inscrits au tarif: le supplément ainsi perçu sera restitué si la facture est produite.

2° Les marchandises déclarées seront examinées par les agents des douanes dans des endroits désignés à cet effet. Cette visite aura lieu sans délai et sans dommage pour les marchandises. Les emballages seront aussitôt rétablis, autant que faire se pourra, en leur état primitif, par les soins de la douane.

3° Si les autorités douanières estiment insuffisante la valeur déclarée par l'importateur ou l'exportateur de marchandises taxées *ad valorem*, le déclarant pourra être invité à payer les droits sur la valeur qui serait attribuée aux dites marchandises par l'expert de la douane. Si l'expertise ne satisfait pas le déclarant, il sera tenu de faire connaître, dans les vingt-quatre heures (dimanches et jours de fête non comptés), au commissaire des douanes, le motif de ses plaintes et de désigner un expert de son choix pour procéder à une contre-estimation.

Il fera ensuite une déclaration de la valeur telle qu'elle résulte de cette seconde expertise. Le commissaire des douanes pourra alors, à son gré, soit taxer les marchandises d'après cette valeur, soit les soumettre au droit de préemption, en payant cette valeur majorée de cinq pour cent. Dans ce dernier cas, le prix d'achat sera versé à l'importateur ou à l'exportateur dans les cinq jours pui suivront la déclaration du résultat de la contre-expertise.

4° Les marchandises d'importation avariées en cours de voyage auront droit à une remise équitable proportionnée à la moins-value qu'elles auront subie. En cas de divergence sur le quantum de cette remise, on suivra la procédure indiquée au paragraphe précédent.

5° Les marchandises destinées à l'exportation devront être déclarées à la douane coréenne avant d'être embarquées. La demande d'embarquement sera faite par écrit et indiquera le nom du navire employé au transport, les marques et numéros des colis, la quantité, la description et la valeur du contenu. L'exportateur certifiera par écrit cette déclaration sincère et véritable et y apposera sa signature.

6° Aucune marchandise ne sera débarquée ni embarquée, soit à d'autres endroits que ceux qui seront fixés par les autorités dounières coréennes, soit entre le coucher et le lever du soleil, soit le dimanche et le jours fériés, sans une permission spéciale de la douane. Celle-ci percevra alors une rémunération équitable pour ce service extraordinaire.

7° Toute réclamation formulée, soit par les importateurs ou exportateurs pour payements en trop, soit par les autorités douanières pour payements en moins, devra, pour être admissible, être déposée dans les trente jours du payement.

8° Aucune déclaration ne sera nécessaire pour les bagages des passagers à bord des navires belges. Ces bagages pourront être débarqués ou embarqués à toute heure, après que la douane se sera assurée qu'ils ne contiennent pas d'articles soumis aux droits. A la demande qui lui en sera faite, la douane délivrera des permis pour les provisions de bord destinées aux bâtiments belges, à leurs équipages et à leurs passagers.

9° Tout navire belge pourra, pour cause de réparations, débarquer sa cargaison sans être soumis à aucun droit. Les marchandises ainsi débarquées resteront sous la surveillance des autorités coréennes, et tous les frais raisonnables de magasinage, de manutention ou de surveillance devront être acquittés par le capitaine. Les droits du tarif seront perçus pour toute partie de cette cargaison qui serait vendue.

10° Aucun transbordement de cargaison ne pourra être effectué sans une autorisation préalable de la douane.

III. Mesures Fiscales.

1° Les autorités douanières pourront, dans les ports de Corée placer des préposés à bord des navires marchands belges. Ces préposés auront libre accès dans toutes les parties du bâtiment où des marchandises seront

arrimées. Ils seront traités avec courtoisie et installés aussi convenablement que le navire le permettra.

2° Depuis le coucher jusqu'au lever du soleil et les dimanches et jours fériés, les préposés pourront fermer les écoutilles et autres voies d'accès aux endroits où la cargaison est arrimée, au moyen de scellés, de cadenas ou d'autres attaches. Toute personne qui aurait, sans permission, volontairement ouvert un passage ainsi fermé ou brisé les scellés, cadenas ou autres attaches placés par la douane coréenne, sera, de même que le capitaine du navire, passible d'une amende de cent dollars mexicains au maximum.

3° Tout Belge qui expédierait ou tenterait d'expédier, débarquerait ou tenterait de débarquer, soit des marchandises qui n'auraient pas été en douane l'objet de la déclaration régulière susmentionnée, soit des colis qui contiendraient des marchandises prohibées ou différentes de celles portées sur la déclaration, encourra une amende égale au double de la valeur de ces marchandises; les marchandises seront confisquées.

4° Tout signataire d'une fausse déclaration ou d'un faux certificat, ayant pour objet de frauder le Trésor coréen, sera passible d'une amende de deux cents dollars mexicains au maximum.

5° Toute infraction aux clauses du présent règlement, pour laquelle une peine spéciale n'a pas été prévue, entraînera une amende de cent dollars mexicains au maximum.

6° Les autorités consulaires belges feront application à leurs ressortissants, dans les mêmes conditions que pour les clauses du traité, de tous les règlements de douane et de port que l'administration des douanes coréennes jugerait nécessaire d'établir en vue de garantir la perception des droits et d'assurer le fonctionnement de son service, pourvu, toutefois, que ces règlements aient été dûment publiés, ne dérogent pas aux stipulations ci-dessus énoncées et ne portent pas atteinte aux droits que le traité reconnaît aux Belges en Corée.

Séoul, le vingt-trois mars mil neuf cent et un, correspondant au vingt-troisième jour du troisième mois de la cinquième année de Koing-Mou.

(L. S.) *Léon Vincart.*
(L. S.) (Signature de *Pak Tjai Soun).*

Règlement.

1. Pour les objets importés, les droits ad valorem de ce tarif seront calculés sur les prix actuels de ces objets au lieu d'origine ou de fabrication, augmenté du fret, de l'assurance, etc. Pour les objets exportés, les droits ad valorem seront calculés d'après le cours des marchés en Corée.

2. Les droits pourront être acquittés en dollars mexicains ou en „Yen“ japonais d'argent.

3. Le tarif ci-dessus d'importation et d'exportation sera converti aussitôt que faire se pourra et dans la mesure où cette conversion sera reconnue utile, en taxes spécifiques, après entente entre les autorités compétentes des deux pays.

Séoul le vingt-trois mars mil neuf cent et un, correspondant au vingt-troisième jour du troisième mois de la cinquième année de Koing-Mou.

(L. S.) *Léon Vincart.*
(L. S.) (Signature de *Pak Tjai Soun).*

64.

BELGIQUE, PAYS-BAS.

Convention en vue de rendre applicables sur l'Escaut et à ses embouchures les signaux d'appel de pilote prévus dans le nouveau Code international des signaux; signée à la Haye le 23 mars 1901.*)

Recueil des Traités du XXe Siècle I.

Sa Majesté le Roi des Belges et Sa Majesté la Reine des Pays-Bas, ayant pris connaissance des dispositions formulées le 25 octobre 1900 par les Commissaires permanents belges et néerlandais pour la surveillance commune des services de pilotage dans l'Escaut, afin de modifier le système de signaux d'appel de pilote établi par le § 1 de l'article 16 du Règlement international du 20 mai 1843, tel que ce paragraphe a été modifié par la Convention conclue le 17 juillet 1876**), ont résolu d'approuver ces dispositions et ont nommé à cet effet pour Leurs Plénipotentiaires, savoir:

Sa Majesté le Roi des Belges:
Le Comte Degrelle Rogier, Son Envoyé extraordinaire et Ministre plénipotentiaire près Sa Majesté la Reine des Pays-Bas;

Sa Majesté la Reine des Pays-Bas:
Monsieur Guillaume-Henri de Beaufort, Son Ministre des Affaires Etrangères, et le Jonkheer Jacques-Alexandre Röell, Son Ministre de la Marine;

Lesquels, après s'être communiqué leurs pleins pouvoirs, trouvés en bonne et du forme sont convenus des articles suivants:

Art. 1. Les dispositions signées à Flessingue le 25 octobre 1900, en langues française et néerlandaise, par les Commissaires permanents belges

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*) Les ratifications ont été échangées à la Haye le 30 avril 1901.
) V. **N. R. G. 2e s. t. II. p. 4.

et néerlandais pour la surveillance commune des services de pilotage dans l'Escaut, ci-annexées en copie, sont approuvées; la teneur respective de ces dispositions est considérée comme insérée dans la présente Convention et sera comprise dans la ratification de cette dernière.

Art. 2. La présente Convention sera ratifiée et les ratifications en seront échangées à La Haye aussitôt que faire se pourra.

En foi de quoi les Plénipotentiaires susdits l'ont signée et y ont apposé leurs cachets.

Fait à La Haye en double original, le 23 mars 1901.

(L. S.) *Cte Degrelle Rogier.* (L. S.) *W.-H. de Beaufort.*
(L. S.) *Röell.*

Convention.

Le Gouvernement belge et le Gouvernement néerlandais, désirant mettre le paragraphe 1er de l'article 16 du Règlement international du 20 mai 1843 en harmonie avec les prescriptions du nouveau Code international des signaux, adopté par les diverses Puissances maritimes, ont désigné à cette fin:

Le Gouvernement belge: MM. N. Allo et L. Roger, Commissaires permanents pour la surveillance commune de la navigation et des services du pilotage, etc., dans l'Escaut;

Le Gouvernement néerlandais: MM. J.-C. de Ruyter de Wildt et J.-W.-A.-F. van Maren Bentz van den Berg, Commissaires permanents pour la surveillance commune de la navigation et des services du pilotage, etc., dans l'Escaut;

Lesquels, s'étant réunis à Flessingue, en vertu des pouvoirs respectifs qui leur ont été conférés, sont convenus des dispositions suivantes:

Art. 1. A partir du 1er mai 1901, le paragraphe 1er de l'article 16 du Règlement international du 20 mai 1843, tel qu'il a été modifié par la Convention du 7 avril 1876, approuvée par les deux Gouvernements sous la date du 17 juillet suivant. sera conçu de la manière ci-après:

Art. 16. Les signaux suivants, faits ou exhibés, soit simultanément, soit séparément, seront considérés comme étant des signaux d'appel de pilote:

A. De jour:

1° Hissé à l'avant, le pavillon national encadré d'une bande blanche d'un cinquième de la largeur du pavillon;

2° Le signal P. T. du Code international de signaux;

3° Le pavillon S du susdit Code, surmonté ou non de la flamme caractéristique du Code;

4° Le signal de distance, consistant en un cône, la pointe tournée vers le haut et surmonté de deux boules ou formes ressemblant à des boules.

B. De nuit:

1° Le feu pyrotechnique, communément appelé „blue light", exhibé toute les 15 minutes;

2° Un feu brillant blanc, à intermittences, ou exhibé à de courts ou fréquents intervalles un peu au-dessus des bastingages, chaque fois pendant environ une minute.

Art. 2. La présente Convention ne sera mise à exécution qu'après l'approbation des Gouvernements respectifs.

Fait, en double expédition, à Flessingue, le 25 octobre 1900, dont une expédition en français et une autre en néerlandais.

Les Commissaires permanents belges

(Signé) *Allo.*
(Signé) *L. Roger.*

Les Commissaires permanents néerlandais:

(Signé) *J.-C. De Ruyter de Wildt.*
(Signé) *Van den Berg.*

(L. S.) *Cte Degrelle Rogier.*

65.

GRANDE-BRETAGNE, DANEMARK.

Convention pour la règlementation du droit de pêche en dehors des eaux territoriales autour des îles Faroë et de l'Islande; signée à Londres, le 24 juin 1901.*)

Treaty Series. No. 5. 1903.

His Majesty the King of the United Kingdom of Great Britain and Ireland and His Majesty the King of Denmark, being desirous of regulating the fisheries of their respective subjects outside Danish territorial waters in the ocean surrounding the Faröe Islands and Iceland, have resolved to conclude for this purpose a Convention, and have named their Plenipotentiaries as follows:

His Majesty the King of the United Kingdom of Great Britain and Ireland, the Most Honourable Henry Charles Keith Petty Fitz-Maurice, Marquess of Lansdowne, Earl Wycombe, Viscount Caln and Calnstone and Lord Wycombe, Baron of Chipping Wycombe, Baron Nairne, Earl of Kerry and Earl of Shelburne, Viscount Clanmaurice and Fitzmaurice, Baron of Kerry, Lixnaw, and Dunkerron; a Peer of the United Kingdom of Great Britain and Ireland, a Member of His Majesty's Most Honourable Privy Council, Knight of the Most Noble Order of the Garter, &c., &c., &c., His Majesty's Principal Secretary of State for Foreign Affairs;

*) Les ratifications ont été échangées à Londres, le 28 mai 1902.

His Majesty the King of Denmark, Mr. Frants Ernst de Bille, his Chamberlain and Envoy Extraordinary and Minister Plenipotentiary at London, Grand Cross of the Order of Danebrog, and decorated with the Silver Cross of the same Order, &c.;

Who, after having communicated the one to the other their full powers, found in good and due form, have agreed upon the following Articles.

Article I.

The provisions of the present Convention, the object of which is to regulate the police of the fisheries in the ocean surrounding the Faröe Islands and Iceland outside the territorial waters of these islands, shall apply to the subjects of the High Contracting Parties.

Article II.

The subjects of His Majesty the King of Denmark shall enjoy the exclusive right of fishery within the distance of 3 miles from low-water mark along the whole extent of the coasts of the said islands, as well as of the dependent islets, rocks and banks.

As regards bays the distance of 3 miles shall be measured from a straight line drawn across the bay, in the part nearest the entrance, at the first point where the width does not exceed 10 miles.

The present Article shall not prejudice the freedom of navigation or anchorage in territorial waters acorded to fishing boats, provided they conform to the Danish Police Regulations ruling this matter, amongst others the one stipulating that trawling vessels, while sojourning in territorial waters, shall have, their trawling gear stowed away in-board.

Article III.

The miles mentioned in the preceding Article are geographical miles, whereof 60 make a degree of latitude.

Article IV.

The geographical limits for the application of the present Convention shall be fixed as follows:

On the south by a line commencing from where the meridian of North Unst Lighthouse (Shetland Islands) meets the parallel of 61st degree of north latitude to a point where the 9th meridian of west longitude meets the parallel of 60° north latitude, and from thence westward along that parallel to the meridian of 27° west longitude.

On the west by the meridian of 27° west longitude.

On the north by the parallel of 67° 30′ of north latitude.

On the east by the meridian of the North Unst Light-house.

The aforesaid limits are shown on the chart appended to the present Convention.

Article V.

The fishing boats of the High Contracting Parties shall be registered in accordance with the administrative Regulations in force in their respective countries.

For each port there shall be a consecutive series of numbers, preceded by one or two initial letters, which shall be specified by the superior competent authority.

Each Government shall draw up a list showing these initial letters.

This list together with all modifications which may subsequently be made in it, shall be notified to the other Government.

Article VI.

Fishing boats shall bear the initial letter or letters of the port to which they belong, and the registry number in the series of numbers for that port.

Article VII.

The name of each fishing boat and that of the port to which she belongs shall be painted in white oil colour on a black ground on the stern of the boat, in letters which shall be at least 8 centim. in height and 12 millim. in breadth.

Article VIII.

The letter or letters and numbers which shall have been assigned to a vessel on its registration shall be painted in white oil colour on a black ground, and so as to be clearly visible on each bow of the vessel, 8 or 10 centim. below the gunwale, provided the space admit it. The letters and numbers of vessels of 15 tons' burden (gross tonnage) and upwards shall be 45 centim. in height and 6 centim. in breadth.

For boats of less than 15 tons' burden (gross tonnage) the dimensions shall, if possible be 25 centim. in height and 4 centim. in breadth.

The same letters and numbers shall also be painted in oil colour on each side of the mainsail of the boat immediately above the close reef, and in such a manner as to be plainly visible, they shall be painted on white sails in black, or black sails in white, and on sails of an intermediate shade in black or in white as may be decided by the authority superintending the marking, in accordance with Article V of the present Convention.

Steam fishing vessels shall, in addition, bear the above marks on the funnel in a plainly visible manner. These marks should be of the same dimensions as those on the bow.

The letter or letters and numbers on the sails shall be one-third larger in every way than those placed on the bows of the boat.

Article IX.

Fishing boats may not have, either on their outside, on their sails, or on their funnels, any names, letters, or numbers, other than those prescribed by Articles VI, VII, and VIII of the present Convention.

Article X.

The names, letters, and numbers placed on the boats and on their sails and funnels shall not be effaced, altered, made illegible, covered or concealed in any manner whatsoever.

Article XI.

All the small boats, buoys, principal floats, trawls, grapnels, anchors, and generally all fishing implements shall be marked with the letter or letters and numbers of the boats to which they belong.

These letters and numbers shall be large enough to be easily distinguished. The owners of the nets or other fishing implements may further distinguish them by any private marks they think proper.

Article XII.

The master of each boat must have with him an official document, issued by the proper authority in his own country, for the purpose of enabling him to establish the nationality of the boat.

This document must always give the letter or letters and number of the boat, as well as her description and the name or names of the owner or the name of the firm or association to which she belongs.

Article XIII.

The nationality of a boat must not be concealed in any manner whatsoever.

Article XIV.

No fishing boat shall anchor, between sunset and sunrise, on grounds where drift-net fishing is actually going on.

This prohibition shall not, however, apply to anchorings which may take place in consequence of accidents or of any other compulsory circumstances.

Article XV.

Boats arriving on the fishing grounds shall not either place themselves or shoot their nets in such a way as to injure each other, or as to interfere with fishermen who have already commenced their operations.

Article XVI.

Whenever, with a view of drift-net fishing, decked boats and undecked boats commence shooting their nets at the same time, the undecked boats shall shoot their nets to windward of the decked boats.

The decked boats, on their part, shall shoot their nets to leeward of the undecked boats.

As a rule, if decked boats shoot their nets to windward of undecked boats which have begun fishing, or if undecked boats shoot their nets to leeward of decked boats which have begun fishing, the responsibility as regards any damages to nets which may result shall rest with the boats which last began fishing, unless they can prove that they were under stress of compulsory circumstances, or that the damage was not caused by their fault.

Article XVII.

No net or any other fishing engine shall be set or anchored on grounds where drift-net fishing is actually going on.

Article XVIII.

No fisherman shall make fast or hold on his boat to the nets, buoys, floats, or any other parts of the fishing tackle of another fisherman.

Article XIX.

When trawl fishermen are in sight of net or of long line fishermen, they shall take all necessary steps in order to avoid doing injury to the latter. Where damage is caused the responsibility shall be on the trawlers, unless they can prove that they were under stress of compulsory circumstances, or that the loss sustained did not result from their fault.

Article XX.

When nets belonging to different fishermen get foul of each other, they shall not be cut without the consent of both parties.

All responsibility shall cease if the impossibility of disengaging the nets by any other means is proved.

Article XXI.

When a boat fishing with long lines entangles her lines in those of another boat, the person who hauls up the lines shall not cut them, except under stress of compulsory circumstances, in which case any line which may be cut shall be immediately joined together again.

Article XXII.

Except in case of salvage and the cases tho which the two preceding Articles relate, no fisherman shall, under any pretext whatever, cut, hook, or lift up nets, lines, or other gear not belonging to him.

When a fisherman fouls or otherwise interferes with the fishing-gear of another fisherman, he shall take all necessary measures for reducing to a minimum the injuries which may result to the gear or to the boat of the other fisherman.

Article XXIII.

The use of any instrument or engine which serves only to cut or destroy nets is forbidden.

The presence of any such engine an board a boat is also forbidden.

The High Contracting Parties engage to take the necessary measures for preventing the embarkation of such engines on board fishing boats.

Article XXIV.

Fishing boats shall conform to the general rules respecting lights sound signals, as well as those concerning steering and navigation, which have been, or may be, adopted in respect of these boats by mutual arrangement between the High Contracting Parties with the view of preventing collisions at sea.

Article XXV.

All fishing boats, all their small boats, all rigging gear, or other appurtenances of fishingboats, all nets, lines, buoys, floats, or other fishing

implements whatsoever found or picked up at sea, whether marked or unmarked, shall as soon as possible be delivered to the competent authority of the first port to which the salving boat returns or puts in.

Such authority shall inform the Consul or Consulator Agent of the country tho which the boat of the salvor belongs, and the nation of the owners of the articles found. They (the same authority) shall restore the articles tho the owners thereof, or to their representatives, as soon as such articles are claimed and the interests of the salvors hove been properly gnaranteed.

The administrative or judicial authorities, according as the laws of the respective countries may provide, shall fix the amount which the owner shall pay to the salvors. It is, however, agreed that this provision shall not iu any way prejudice such Conventions respecting this matter as are already in force, and that the High Contracting Parties reserve the right of regulating, by special arrangements between themselves, the amount of salvage at a fixed rate per net salved.

Fishing implements of any kind found unmarked shall be treated as wreck.

Article XXVI.

The superintendence of the fisheries shall be exercised by vessels belonging to the national navies of the High Contracting Parties. In the case of Denmark, such vessels may be vessels belonging to the State, commanded by Captains who hold commissions.

Article XXVII.

The execution of the Regulations respecting the documents establishing nationality, the marking and numbering of boats, &c., and of fishing implements, as well as the presence on board of instruments which are forbidden (Articles VI, VII, VIII, IX, X, XI, XII, XIII and XXIII, para. 2), is placed under the exclusive superintendence of cruisers of the nation of each fishing boat. Nevertheless the Commanders of cruisers shall acquaint each other with any infractions of the above-mentioned Regulations committed by the fishermen of the other nation.

Article XXVIII.

The cruisers of the High Contracting Parties shall be competent to authenticate all infractions of the Regulations prescribed by the present Convention other than those referred to in Article XXVII, and all offences relating to fishing operations, whichever may be the nation to which the fishermen guilty of such infraction may belong.

Article XXIX.

When the Commanders of cruisers have reason to believe that an infraction of the provisions of the present Convention has been committed, they may require the master of the boat inculpated to exhibit the official document establishing her nationality. The fact of such document having been exhibited shall then be indorsed upon it immediately. The Com-

manders of cruisers shall not pursue further their visit or search on board a fishing boat which is not of their own nationality, unless it should be necessary for the purpose of obtaining proof of an offence or of a contravention of Regulations respecting the police of the fisheries.

Article XXX.

The Commanders of the cruisers of the High Contracting Parties shall exercise their judgment as to the gravity of facts brought to their knowledge, and of which they are empowered to take cognizance and shall verify the damage, from whatever cause arising, which may be sustained by fishing boats of the nationalities of te High Contracting Parties.

They shall draw up, if there is occasion for it, a formal statement of the verification of the facts as elicited both from the declaration of the parties interested and from the testimony of those present.

The Commander of the cruiser may, if the case appears to him sufficiently serious to justify the step, take the offending boat into a port of the nation to which the fisherman belongs.

He may even take on board the cruiser a part of the crew of the fishing boat, in order to hand them over to the authorities of her nation.

Article XXXI.

The formal statement referred to in the preceding Article shall be drawn up in the language of the Commander of the cruiser, and according to the forms in use in his country. The accused and the witnesses shall be entitled to add, or to have added, to such statement, in their own language, any observations or evidence which they may think suitable. Such declarations must be duly signed.

Article XXXII.

Resistance to the direction of Commanders of cruisers charged with the police of the fisheries, or of those who act under their orders, shall, without taking into account the nationality of the cruiser, be considered as resistance to the authority of the nation of the fishing boat.

Article XXXIII.

When the act alleged is not of a serious character, but has, nevertheless, caused damage to any fisherman, the Commanders of cruisers shall be at liberty, should the parties concerned agree to it, to arbitrate at sea between them, and to fix the compensation to be paid. Where one of the parties is not in a position to settle the matter at once, the Commanders shall cause the parties concerned to sign in duplicate a formal document specifying the compensation to be paid.

One copy of this document shall remain on board the cruiser and the other shall be handed to the master of the boat to which the compensation is due, in order that he may, if necessary, be able to make use of it before the Courts of the country to which the debtor belongs.

Where, on the contrary, the parties do not consent to arbitration, the Commanders shall act in accordance with the provisions of Article XXX.

Article XXXIV.

The prosecution for offences against or contraventions of the present Convention shall be instituted by, or in the name of the State.

Article XXXV.

The High Contracting Parties engage to propose to their respective Legislatures any measures which may be necessary for insuring the execution of the present Convention, and particularly for the punishment by either fine or imprisonment, or by both, of persons who may contravene the provisions of Articles VI to XXIII inclusive.

Article XXXVI.

In all cases of assault committed, or of wilful damage or loss inflicted, by fishermen of one of the contracting countries upon fishermen of the other nationality, the Courts of the country to which the boats of the offenders belong shall be empowered to try them.

The same rule shall apply with regard to offences against and contraventions of the present Convention.

Article XXXVII.

The proceedings and trial in cases of infraction of the provisions of the present Convention shall take place as summarily as the Laws and Regulations in force will permit.

Article XXXVIII.

The present Convention shall be ratified. The ratifications shall be exchanged in London as soon as possible.

Article XXXIX.

The present Convention shall come into operation from and after a day to be fixed upon by the two High Contracting Parties after it shall have been notified by the Danish Government that measures have been passed in respect of the Faröe Island and Iceland, by which freedom of navigation and anchorage within the territorial waters of the said islands is accorded to British fishermen (*vide* Article II, para. 3). The Convention shall continue in force until the expiration of two years from notice by either party for its termination.

The High Contracting Parties, however, reserve to themselves the power to make, by mutual consent, any modification in the Convention which experience shall have shown to be desirable, provided it is not inconsistent with the principles upon which the Convention is based.

Additional Article.

Any other Government, the subjects of which carry on fishery in the ocean surrounding the Faröe Island and Iceland, may adhere to the

present Convention. The adhesion shall be notified to one of the Governments at Copenhagen or at London respectively. Such notification shall be communicated to the other Signatory Power.

In witness whereof the Plenipotentiaries have signed the present Convention, and have affixed thereto their seals.

Done at London, in two copies, June 24, 1901.

(L. S.) *Lansdowne.*
(L. S.) *F. Bille.*

66.

ETAT INDÉPENDANT DU CONGO, FRANCE.

Convention commerciale, signée à Bruxelles le 31 octobre 1901*)

Recueil des Traités du XX e s. T. I.

Le Président de la République française, et Sa Majesté Léopold II, Roi des Belges, Souverain de l'État indépendant du Congo,

Désirant faciliter les relations commerciales entre la France et l'État indépendant du Congo, ont décidé de conclure une Convention à cet effet et ont nommé pour Leurs Plénipotentiaires respectifs:

Le Président de la République française:

M. Gérard, Envoyé Extraordinaire et Ministre Plénipotentiaire de la République Française à Bruxelles, Commandeur de la Légion d'honneur, Grand-Officier de l'Ordre de Léopold, etc.;

Sa Majesté Léopold II, Roi des Belges, Souverain de l'État indépendant du Congo:

M. le Chevalier de Cuvelier (A.), Secrétaire Général du Département des Affaires Étrangères de l'Etat indépendant du Congo, Chevalier de Notre Ordre de Léopold, etc.,

Lesquels, après s'être communiqué leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus de ce qui suit:

Art. 1. Les denrées coloniales de consommation suivantes: café, cacao, poivre, piment, amomes et cardamomes, cannelle, cassia lignea, muscades, macis, girofles, vanille et thé, originaires de l'Etat indépendant du Congo, bénéficieront, à leur importation en France, en Algérie, dans les colonies et possessions françaises, dans les pays de protectorat de l'Indo-Chine et de la Tunisie, des taxes de douane les plus réduites applicables aux produits similaires de toute autre origine étrangère.

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*) Les ratifications ont été échangées à Bruxelles le 18 février 1902.

Art. 2. Réciproquement, les produits naturels et fabriqués originaires de France, d'Algérie, des colonies et possessions françaises, des pays de protectorat de l'Indo-Chine et de la Tunisie, bénéficieront sans aucune restriction ni réserve, à leur importation dans l'État indépendant du Congo, des taxes de douane les plus réduites applicables aux produits similaires de toute autre origine étrangère.

Art. 3. Les certificats d'origine qui seraient exigés pour l'admission des marchandises aux régimes de faveur stipulés par la présente Convention, seront visés par les consuls et agents des deux pays, en gratuité des taxes consulaires Chancellerie.

Art. 4. La présente Convention sera ratifiée par les deux Gouvernements aussitôt que faire se pourra, et les ratifications en seront échangées à Bruxelles. Elle entrera en vigueur immédiatement après l'échange des ratifications et demeurera exécutoire jusqu'à l'expiration d'une année, à partir du jour où l'une des Hautes Parties Contractantes aura notifié son intention d'en faire cesser les effets.

En foi de quoi, les Plénipotentiaires mentionnés ci-dessus ont signé la présente Convention et y ont apposé leurs cachets.

Fait en double exemplaire à Bruxelles, le trente et un octobre mil neuf cent un.

(L. S.) (Signé) *A. Gérard.*
(L. S.) (Signé) *Chevalier de Cuvelier.*

67.

BULGARIE, ROUMANIE.

Convention concernant les mesures à prendre pour la conservation et l'exploitation de la pêche dans les eaux du Danube, signée à Sofia le 29 novembre 1901.*)

Recueil des Traités du XX e s. T. I.

Son Altesse Royale le Prince de Bulgarie et Sa Majesté le Roi de Roumanie, ayant jugé utile de conclure une Convention déterminant les mesures uniformes à prendre pour la conservation et l'exploitation de la pêche dans toutes les parties du Danube qui appartiennent à la Bulgarie et à la Roumanie, ont nommé, à cet effet, pour Leurs Plénipotentiaires:

Son Altesse Royale le Prince de Bulgarie:

Monsieur le Docteur S. Daneff, Son Ministre des Affaires Etrangères et des Cultes;

*) Les ratifications ont été échangées à Bucarest le 25 octobre 1902.

Sa Majesté le Roi de Roumanie:

Monsieur N. Misu, Son Agent Diplomatique et Consul Général à Sofia, Commandeur de l'Ordre de la Couronne de Roumanie et Officier de l'Ordre de l'Etoile de Roumanie, etc., et

Monsier le Docteur Gr. Antipa, Inspecteur Général des Pêcheries, Officier de l'Ordre de l'Etoile de Roumanie et Chevalier de l'Ordre de la Couronne de Roumanie, etc.;

Lesquels, après s'être communiqué leurs pleins pouvoirs respectifs, trouvés en bonne et due forme, sont convenus de ce qui suit:

Art. I. La pêche dans toutes les parties du Danube appartenant à la Roumanie et à la Bulgarie sera soumise aux dispositions suivantes:

Art. II. Il est interdit de faire usage d'engins et instruments de pêche en fil ou autres matières textiles, dont les mailles, mesurées après leur séjour dans l'eau, auraint des dimensions moindres que 4 centimètres de côté.

Pour la partie du filet qui forme le sac du grand filet traînant (năvod), les mailles pourront être réduites jusqu'à 2 $^1/_2$ centimètres de côté.

Pour la pêche du hareng du Danube (Clupea pontica) les dimensions des mailles pourront être réduites jusqu'à 3 $^1/_2$ centimètres de côté.

La mesure des mailles est admise avec une tolérance de $^1/_{10}$.

Les Gouvernements respectifs, à la suite d'une entente entre leurs délégués, peuvent réduire les dimensions des mailles de certains appareils et à des époques déterminées, mais seulement pour des espèces de poissons de petite taille.

Art. III. Est interdite la pêche à la dynamite ou à toute autre matiére explosible, toxique ou narcotique.

Art. IV. Les bourdigues et les barrages fixes, en bois ou en roseau, doivent être construits de manière que les espaces entre claies ne soient pas moindres que 3 centimètres.

Art. V. Il est défendu d'installer, sur un cours d'eau, tous appareils de pêche, fixes ou mobiles (cordes aux hameçons, filets traînants, trémails, grands filets, etc.), qui barrent plus de la moitié du courant et empêchent ainsi le libre passage des poissons migrateurs.

Cette distance sera déterminée en prenant le milieu de la ligne la plus courte qui unit les deux rives pendant les eaux basses.

Cette mesure ne s'applique pes aux canaux (gârla) qui conduisent aux marais et aux lacs.

Art. VI. La pêche des espèces suivantes est interdite du 1er avril au 1er juin, vieux style, en vue de protéger la reproduction:

Acipenser huso L. (Morun en roumain, Morouna en bulgare): Acipenser guldenstädtii (Nisetru en roumain, Esetra en bulgare); Acipenser stellatus Pall (Păstruga en roumain et en bulgare); Acipenser Schypa Guld. (Viza en roumain et en bulgare); Acipenser glaber (Viza en roumain et en bulgare); Acipenser ruthenus L. (Cega en roumain et Tchiga en bulgare) et toutes les espèces du genre Acipenser.

Lucioperca sandra et volgensis (Sandre, Salău en romain, Smadog ou Béla ryba en bulgare); Cyprinus Carpio L. (Carpe, Crap en roumain, Scharan en bulgare); Tinca vulgaris Cuv. (Tanche, Lin en roumain, Kalinik en bulgare); Barbus fluviatilis Agas. (Barbeau, Mreană en roumain et en bulgare) et toutes les espèces du genre Barbus. Astacus fluviatilis te leptodactylus (écrevisse, rac en roumain et en bulgare).

Les Gouvernements respectifs, après entente de leurs délégués, pourront établir des époques de prohibition aussi pour d'autres espèces que celles qui ont été énumérées.

Exceptionnellement la pêche dans le Danube sera permise deux jours avant le Dimanche des Rameaux.

Art. VII. La pêche des espèces ci-dessous indiquées sera interdite si elles n'ont pas au moins les dimensions minimales suivantes:

Acipenser huso.	100	ctm
Acipenser guldenstädtii.	60	„
Acipenser stellatus.	60	„
Acipenser ruthenus.	35	„
Acipenser Schypa et Glaber. . . .	60	„
Lucioperca sandra et L. volgensis. .	30	„
Cyprinus Carpio et autres espèces du genre Cyprinus.	30	„
Tinca vulgaris.	20	„
Barbus fluviatilis.	25	„
Astacus fluviatilis et Astacus leptodactylus	9	„

Les dimensions des poissons seront prises en mesurant la distance de l'œil à l'extrémité de la queue.

La tolérance admise est de 10%.

Les Gouvernements respectifs, après entente de leurs délégués, pourront — si on le trouve nécessaire — établir des dimensions minimales aussi pour d'autres espèces que celles qui ont été indiquées.

Art. VIII. Les poissons qui n'auront pas les dimensions indiquées dans l'art. VII, ainsi que ceux qui seraient pris à une époque interdite par l'art. VI, doivent être immédiatement jetés à l'eau, même s'ils sont morts.

Art. IX. La vente des poissons prohibés soit à cause de leurs dimensions, soit à cause de leur époque de reproduction, est rigoureusement interdite, ainsi que la vente de leur caviar.

Art. X. Dans l'intérêt de la pisciculture et de l'astaciculture, de même que dans le but d'expériences scientifiques, la pêche des poissons et des écrevisses peut, malgré l'interdiction établie par les articles VI et VII, être accordée exceptionnellement en vertu d'un permis, délivré par l'autorité compétente, qui pourra aussi, pour les mêmes motifs, autoriser l'emploi des appareils et engins prohibés par l'article II.

Art. XI. Les Gouvernements des Parties Contractantes prendront toutes les mesures nécessaires pour la mise en application de cette Con-

vention, puniront toutes les contraventions des peines prévues par les lois respectives et auront le personnel nécessaire pour la surveillance.

Cette Convention n'empêche pas les Parties Contractantes de prendre librement, sur leur territoire, des mesures même plus sévères, si elles le jugent nécessaire.

Art. XII. Chaque Gouvernement des Etats Contractants aura un délégué spécial. Ces délégués se communiqueront réciproquement les mesures que leurs Gouvernements prendront en ce qui concerne la pêche dans les eaux auxquelles s'étendent les dispositions de la présente Convention, et, de temps à autre, ils se réuniront pour étudier et proposer de nouvelles mesures, ainsi que pour veiller à l'application stricte du texte de la Convention.

Art. XIII. Cette Convention sera mise en application dès le jour de son approbation par les deux Gouvernements et restera en vigueur pour une durée de cinq ans.

Si, après cette période, aucune des Puissances Contractantes ne l'a dénoncée une année d'avance, elle continuera à rester en vigueur jusqu'à ce que l'un des Gouvernements l'ait dénoncée douze mois d'avance.

En foi de quoi, les Plénipotentiaires respectifs ont signé la presente Convention et y ont apposé leurs cachets.

Fait, en double exemplaire, à Sofia, le vingt-neuf novembre mil neuf cent un.

(L. S.) (Signé) *S. Daneff.* (L. S.) (Signé) *N. Misu.*
(L. S.) (Signé) *Dr. Gr. Antipa.*

68.

GRANDE-BRETAGNE, FRANCE.

Convention concernant les relations commerciales entre la France et la Jamaïque; signée à Londre, le 8 août 1902.*)

Treaty Series. No. 12. 1903.

His Majesty the King of the United Kingdom of Great Britani and Ireland and of the British Dominions beyond the Seas, Emperor of India, and the President of the French Republic, desiring to facilitate the commercial relations between France and Jamaica, have resolved

Sa Majesté le Roi de Grande-Bretagne et d'Irlande et des Territoires Britanniques au delà des Mers, Empereur des Indes, et le Président de la République Française désirant faciliter les relations commerciales entre la France et la Jemaïque, ont décidé de conclure une Convention

*) Les ratifications ont été échangées à Londres, le 12 août 1903.

to conclude a Convention to that effect, and have named as their respective Plenipotentiaries:

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, the Most Honourable Henry Charles Keith Petty-Fitzmaurice, Marquess of Lansdowne, His Majesty's Principal Secretary of State for Foreign Affairs; and

The President of the French Republic, M. Paul Cambon, Ambassador of the French Republic at London;

Who, having reciprocally communicated their full powers, found in good an due form, have agreed as follows:

Article I.

The following colonial products: coffee, cocoa, pepper, pimento, amomums and cardamons, cinnamon, cassia lignea, nutmegs, mace, cloves, vanilla, and tea, produce of Jamaica, shall enjoy on importation into France, Algeria, French Colonies and possessions, and the Protectorates of Indo-China and Tunis, the lowest customs duties applicable to similar products of any other foreign origin.

Article II.

Reciprocally, the natural and manufactured products of France, Algeria, French Colonies and possessions, and the Protectorates of Indo-China, and Tunis, shall enjoy without restriction or reserve, on importation into Jamaica, the lowest customs duties applicable to similar products of other foreign origin.

à cet effet, et ont nommé pour leurs Plénipotentiaires respectifs:

Sa Majesté le Roi de Grande-Bretagne et d'Irlande et des Territoires Britanniques au delà des Mers, Empereur des Indes, le Trés Honorable Henry Charles Keith Petty-Fitzmaurice, Marquis de Lansdowne, Principal Secrétaire d'Etat de Sa. Majesté au Département des Affaires Étrangères; et

Le Président de la République Française, M. Paul Cambon, Ambassadeur de France à Londres;

Lespuels, aprés s'être communiqués leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus de ce qui suit:

Article I.

Les denrées coloniales de consommation suivantes: café, cacao, poivre, piment, amomes et cardamomes, cannelle, cassia lignea, muscades, macis, girofles, vanille, et thé, originaires de la Jamaïque, bénéficieront, à leur importation en France, en Algérie, dans les Colonies et possessions Françaises, dans les pays de Protectorat de l'Indo-Chine et de la Tunisie, des taxes de douane les plus réduites applicables aux produits similaires de toute autre origine étrangère.

Article II.

Réciproquement, les produits naturels et fabriqués, originaires de France, d'Algérie, des Colonies et possessions Françaises, des pays de Protectorat de l'Indo-Chine et de la Tunisie, bénéficieront, sans aucune restriction ni réserve, à leur importation à la Jamaïque, des taxes de douane les plus réduites applicables aux produits similaires de toute autre origine étrangère.

Article III.

The certificates of origin which may be required for the admission of goods to the preferential conditions stipulated in the present Treaty shall be *visés* by French Consuls and by British Consuls without levying Consular fees.

Article IV.

The present Convention shall be ratified as soon as possible, and the ratifications shall be exchanged at London. It shall come into effect immediately after the exchange of ratifications, and shall remain in force until the expiration of one year from the day on which one of the High Contracting Parties shall have announced its intention of terminating it.

In witness whereof the abovementioned Plenipotentiaries have signed the present Convention and have affixed thereto their seals.

Done at London, in duplicate, the 8th day of August, 1902.

Article III.

Les certificats d'origine qui seraient exigés pour l'admission des marchandises aux régimes de faveur stipulés par la présente Convention seront visés par les Consuls Français et par les Consuls Britanniques en gratuité des taxes consulaires de Chancellerie.

Article IV.

La présente Convention sera ratifiée aussitôt que faire se pourra et les ratifications en seront échangées à Londres. Elle entrera en vigueur immédiatement après l'échange des ratifications, et demeurera exécutoire jusqu'à l'expiration d'une année à partir du jour où l'une des Hautes Parties Contractantes aura notifié son intention d'en faire cesser les effets.

En foi de quoi les Plénipotentiaires mentionnés ci-dessus ont signé la présente Convention, et y ont apposé leurs cachets.

Fait en double exemplaire, à Londres, le 8 Août, 1902.

(L. S.) *Lansdowne.*
(L. S.) *Paul Cambon.*

69.

FRANCE, PAYS-BAS.

Convention commerciale relative aux colonies néerlandaises; signée à la Haye, le 13 août 1902*)

Journal officiel du 31 mars 1904.

Le Président de la République française et Sa Majesté la reine des Pays-Bas,

Désirant faciliter les relations commerciales entre la France et les colonies néerlandaises, ont décidé de conclure une convention à cet effet et ont nommé pour leurs plénipotentiaires respectifs,

*) L'échange des ratifications a eu lieu à la Haye, le 2 mars 1904.

Le Président de la République française:

M. Baylin de Monbel, envoyé extraordinaire et ministre plénipotentiaire de la République française près Sa Majesté la reine des Pays-Bas,

Et Sa Majesté la reine des Pays-Bas:

M. le baron R. Melvil de Lynden, son ministre des affaires étrangères,

Lesquels, après s'être communiqué leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus de ce qui suit:

Art. 1er. Les denrées coloniales de consommation suivantes: café, cacao, chocolat, poivre, piment, amomes et cardamomes, canelle, cassia lignea, muscades, macis, girofles, vanille et thé, originaires des colonies néerlandaises, bénéficieront à leur importation en France, en Algérie, dans les colonies et possessions françaises, dans les pays de protectorat de l'Indo-Chine et de la Tunisie, des taxes de douane les plus réduites applicables aux produits similaires de toute autre origine étrangère.

Art. 2. Réciproquement, les produits naturels et fabriqués, originaires de France, d'Algérie, des colonies et possessions françaises, des pays de protectorat de l'Indo-Chine et de la Tunisie, bénéficieront à leur importation dans les colonies néerlandaises, des taxes de douane les plus réduites applicables aux produits similaires de toute autre origine étrangère.

Ces stipulations ne s'appliquent pas à la franchise de droits d'entrée accordée aux Etats indigènes de l'archipel oriental pour l'importation de leurs produits dans les colonies des Pays-Bas.

Art. 3. Les certificats d'origine qui seraient exigés pour l'admission des marchandises aux régimes de faveur stipulés par la présente convention, seront visés par les consuls français et les consuls néerlandais en gratuité des taxes consulaires de chancellerie.

Art. 4. La présente convention sera ratifiée par les deux Gouvernements aussitôt que faire se pourra et les ratifications en seront échangées à La Haye. Elle entrera en vigueur immédiatement après l'échange des ratifications et demeurera exécutoire jusqu'à l'expiration d'une année à partir du jour où l'une des hautes parties contractantes aura notifié son intention d'en faire cesser les effets.

En foi de quoi, les plénipotentiaires mentionnés ci-dessus ont signé la présente convention et y ont apposé leurs cachets.

Fait en double exemplaire à La Haye, le 13 août 1902.

(L. S.) (Signé) *Monbel.*
(L. S.) (Signé) *Baron Melvil de Lynden.*

70.

GRANDE-BRETAGNE, CHINE.

Traité concernant les relations commerciales; signé à Shangaï, le 5 septembre 1902.*)

Treaty Series No. 17. 1903.

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, and His Majesty the Emperor of China, having resolved to enter into negotiations with a view to carrying out the provision contained in Article 11 of the Final Protocol signed at Peking on the 7th September, 1901, under which the Chinese Government agreed to negotiate the amendments deemed useful by the foreign Governments to the Treaties of Commerce and Navigation and other subjects concerning commercial relations with the object of facilitating them, have for that purpose named as their Plenipotentiaries, that is to say:

His Majesty the King of Great Britain and Ireland, His Majesty's Special Commissioner, Sir James Lyle Mackay, Knight Commander of the Most Eminent Order of the Indian Empire, a member of the Council of the Secretary of State for India, &c.

And His Majesty the Emperor of China, the Imperial Commissioners Lü Hai-huan, President of the Board of Public Works, &c., and Shèng Hsüan-huai, Junior Guardian of the Heir-Apparent, Senior Vice-President of the Board of Public Works, &c.

Who having communicated to each other their respective full powers, and found them to be in good and due form have agreed upon and concluded the following Articles:

Article I.

Delay having occurred in the past in the issue of Drawback Certificates owing to the fact that those documents have to be dealt with by the Superintendent of Customs at a distance from the Customs Office, it is now agreed that Drawback Certificates shall hereafter in all cases be issued by the Imperial Maritime Customs within three weeks of the presentation to the Customs of the papers entitling the applicant to receive such Drawback Certificates.

These Certificates shall be valid tender to the Customs authorities in payment of any duty upon goods imported or exported (transit dues excepted,) or shall, in the case of Drawbacks on foreign goods re-exported abroad within three years from the date of importation, be payable in

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*) Les ratifications ont été échangées à Pékin, le 28 juillet 1903.

cash without deduction by the Customs Bank at the place where the import duty was paid.

But if, in connection with any application for a Drawback Certificate, the Customs authorities discover an attempt to defraud the revenue, the applicant shall be liable to a fine not exceeding five times the amount of the duty whereof he attempted to defraud the Customs, or to a confiscation of the goods.

Article II.

China agrees to take the necessary steps to provide for a uniform national coinage which shall be legal tender in payment of all duties, taxes and other obligations throughout the Empire by British as well as Chinese subjects.

Article III.

China agrees that the duties and *likin* combined levied on goods carried by junks from Hong Kong to the Treaty ports in the Canton Province and *vice versâ*, shall together not be less than the duties charged by the Imperial Maritime Customs on similar goods carried by steamer.

Article IV.

Whereas questions have arisen in the past concerning the right of Chinese subjects to invest money in non-Chinese enterprises and companies, and whereas it is a matter of common knowledge that large sums of Chinese capital are so invested, China hereby agrees to recognise the legality of all such investments past, present and future.

It being, moreover, of the utmost importance that all shareholders in a Joint-Stock Company should stand on a footing of perfect equality as far as mutual obligations are concerned, China further agrees that Chinese subjects who have or may become shareholders in any British Joint-Stock Company shall be held to have accepted, by the very act of becoming shareholders, the Charter of Incorporation or Memorandum and Articles of Association of such Company and regulations framed thereunder as interpreted by British Courts, and that Chinese Courts shall enforce compliance therewith by such Chinese shareholders, if a suit to that effect be entered, provided always that their liability shall not be other or greater than that of British shareholders in the same Company.

Similarly the British Government agree that British subjects investing in Chinese Companies shall be under the same obligations as the Chinese shareholders in such Companies.

The foregoing shall not apply to cases which have already been before the Courts and been dismissed.

Article V.

The Chinese Government undertake to remove within the next two years the artificial obstructions to navigation in the Canton River. The Chinese Government also agree to improve the accommodation for shipping in the harbour of Canton and to take the necessary steps to maintain that improvement, such work to be carried out by the Imperial Maritime

Customs and the cost thereof to be defrayed by a tax on goods landed and shipped by British and Chinese alike according to a scale to be arranged between the merchants and Customs.

The Chinese Government are aware of the desirability of improving the navigability by steamer of the waterway between Ichang and Chungking, but are also fully aware that such improvement might involve heavy expense and would affect the interests of the population of the Provinces of Szechuen, Hunan, and Hupeh. It is, therefore, mutually agreed that until improvements can be carried out steam-ship owners shall be allowed, subject to approval by the Imperial Maritime Customs, to erect, at their own expense, appliances for hauling trough the rapids. Such appliances shall be at the disposal of all vessels, both steamers and junks, subject to regulations to be drawn up by the Imperial Maritime Customs. These appliances shall not obstruct the waterway or interfere with the free passage of junks. Signal stations and channel marks where and when necessary shall be erected by the Imperial Maritime Customs. Should any practical scheme be presented for improving the waterway and assisting navigation without injury to the local population or cost to the Chinese Government, it shall be considered by the latter in a friendly spirit.

Article VI.

The Chinese Government agree to make arrangements to give increased facilities at the open ports for bonding and for repacking merchandise in bond, and, on official representation being made by the British authorities, to grant the privileges of a bonded warehouse to any warehouse which it is established to the satisfaction of the Customs authorities affords the necessary security to the revenue.

Such warehouses will be subject to regulations, including a scale of fees according to commodities, distance from customhouse and hours of working, to be drawn up by the Customs' authorities who will meet the convenience of merchants so far as is compatible with the protection of revenue.

Article VII.

Inasmuch as the British Government afford protection to Chinese trade-marks against infringement, imitation, or colourable imitation by British subjects, the Chinese Government undertake to afford protection to British trade-marks against infringement, imitation, or colourable imitation by Chinese subjects.

The Chinese Government further undertake that the Superintendents of Northern and of Southern Trade shall establish offices within their respective jurisdictions under control of the Imperial Maritime Customs where foreign trade-marks may be registered on payment of a reasonable fee.

Article VIII.

Preamble.

The Chinese Government, recognizing that the system of levying *likin* and other dues on goods at the place of production, in transit, and

at destination, impedes the free circulation of commodities and injures the interests of trade, hereby undertake to liscard completely those means of raising revenue with the limitation mentioned in section 8.

The British Government, in return, consent to allow a surtax, in excess of the Tariff rates for the time being in force to be imposed on foreign goods imported by British subjects and a surtax in addition to the export duty on Chinese produce destined for export abroad or coastwise.

It is clearly understood that, after *likin* barriers and other stations for taxing goods in transit have been removed, no attempt shall be made to revive them in any form or under any pretext whatsoever; that in no case shall the surtax on foreign imports exceed the equivalent of one and a-half times the import duty leviable in terms of the Final Protocol signed by China and the Powers on the 7th day of September, 1901; that payment of the import duty and surtax shall secure for foreign imports, whether in the hands of Chinese or non-Chinese subjects, in original packages or otherwise, complete immunity from all other taxation, examination or delay; that the total amount of taxation leviable on native produce for export abroad shall, under no circumstances, exceed $7\frac{1}{2}$ per cent. *ad valorem.*

Keeping these fundamental principles steadily in view, the High Contracting Parties have agreed upon the following methods of procedure.

Section 1. The Chinese Government undertake that all barriers of whatsoever kind, collecting *likin* or such like dues or duties, shall be permanently abolished on all roads, railways, and waterways in the Eighteen Provinces of China and the Three Eastern Provinces. This provision does not apply to the Native Custom-Houses at present in existence on the seaboard or waterways, at open ports, on land routes, and on land frontiers of China.

Sec. 2. The British Government agree that foreign goods on importation, in addition to the effective 5% import duty as provided for in the Protocol of 1901, shall pay a special surtax equivalent to one and a-half times the said duty to compensate for the abolition of *likin*, of transit dues in lieu of *likin*, and of all other taxation on foreign goods, and in consideration of the other reforms provided for in this Article; but this provision shall not impair the right of China to tax salt, native opium, and native produce as provided for in sections 3, 5, 6, and 8.

The same amount of surtax shall be levied on goods imported into the Eighteen Provinces of China and the Three Eastern Provinces across the land frontiers as on goods entering China by sea.

Sec. 3. All Native Custom-Houses now existing, whether at the Open Ports, on the seaboard, on rivers, inland waterways, land routes or land frontiers, as enumerated in the Hu Pu and Kung Pu *Tse Li* (Regulations of the Boards of Revenue and Works) and *Ta Ch'ing Hui Tien* (Dynastic Institutes), may remain; a list of the same, with their location, shall be furnished to the British Government for purposes of record.

Wherever there are Imperial Maritime Custom-Houses, or wherever such may be hereafter placed, Native Custom-Houses may be also established; as well as at any points either on the seaboard or land frontiers.

The location of Native Custom-Houses in the Interior may be changed as the circumstances of trade seem to require, but any change must be communicated to the British Government, so that the list may be corrected; the originally stated number of them shall not, however, be exceeded.

Goods carried by junks or sailing-vessels trading to or from Open Ports shall not pay lower duties than the combined duties and surtax on similair cargo carried by steamers.

Native produce, when transported from one place to another in the Interior, shall, on arrival at the first Native Custom-House after leaving the place of production, pay duty equivalent to the export surtax mentioned in Section 7.

When this duty has been paid, a certificate shall be given which shall describe the nature of the goods, weight, number of packages, &c., amount of duty paid, and intended destination. This certificate, which shall be valid for a fixed period of not less than one year from the date of payment of duty, shall free the goods from all taxation, examination, delay, or stoppage at any other Native Custom-Houses passed *en route.*

If the goods are taken to a place not in the foreign settlements or concessions of an Open Port, for local use, they become there liable to the Consumption Tax described in Section 8.

If the goods are shipped from an Open Port, the certificate is to be accepted by the Custom-House concerned, in lieu of the export surtax mentioned in Section 7.

Jnnks, boats, or carts shall not be subjected to any taxation beyond a small and reasonable charge, paid periodically at a fixed annual rate. This does not exclude the right to levy, as at present, tonnage (Chuan Chao) and port dues (Chuan Liao) on junks.

Sec. 4. Foreign opium duty and present *likin*—which latter will now become a surtax in lieu of *likin*—shall remain as provided for by existing Treaties.

Sec. 5. The British Government have no intention whatever of interfering with China's right to tax native opium, but it is essential to declare that, in her arrangements for levying such taxation, China will not subject other goods to axation, delay, or stoppage.

China is free to retain at importants points on the borders of each province—either on land or water—offices for collecting duty on native opium, where duties or contributions leviable shall be paid in one lump sum; which payment shall cover taxation of all kinds within that province. Each cake of opium will have a stamp affixed as evidence of duty payment. Excise officers and police may be employed in connection with these offices; but no barriers or other obstructions are to be erected, and the Excise officers or police of these offices shall not stop or molest any other kinds of goods, or collect taxes thereon.

A list of these offices shall be drawn up and communicated to the British Government for record.

Sec. 6. *Likin* on salt is hereby abolished and the amount of said *likin* and of other taxes and contributions shall be added to the salt duty, which shall be collected at place of production or at first station after entering the province where it is to be consumed.

The Chinese Government shall be at liberty to establish salt reporting offices at which boats conveying salt which is being moved under salt passes or certificates may be required to stop for purposes of examination and to have their certificates *visé'd*, but at such offices no *likin* or transit taxation shall be levied and no barriers or obstructions of any kind shall be erected.

Sec. 7. The Chinese Government may recast the Export Tariff with specific duties as far as practicable, on a scale not exceeding 5 per cent. *ad valorem*; but existing export duties shall not be raised until at least six months' notice has been given.

In cases where existing export duties are above 5 per cent. they shall be reduced to not more than that rate.

An additional sqecial surtax of one half the export duty payable for the time being, in lieu of internal taxation and *likin*, may be levied at time of export on goods exported either to foreign countries or coastwise.

In the case of silk, whether hand or filature reeled, the total export duty shall not exceed a specific rate equivalent to not more than 5 per cent. *ad valorem.* Half of this specific duty may be levied at the first Native Custom-House in the interior which the silk may pass and in such case a certificate shall be given as provided for in Section 3, and will be accepted by the Custom-House concerned at place of export in lieu of half the export duty. Cocoons passing Native Custom-Houses shall be liable to no taxation whatever. Silk not exported but consumed in China is liable to the Consumption Tax mentioned and under conditions mentioned in Section 8.

Sec. 8. The abolition of the *likin* system in China and the abandonment of all other kinds of internal taxation on foreign imports and on exports will diminish the revenue materially. The surtax on foreign imports and exports and on coastwise exports is intended to compensate in a measure for this loss of revenue, but there remains the loss of *likin* revenue on internal trade to be met, and it is therefore agreed that the Chinese Government are at liberty to impose a Consumption Tax on articles of Chinese origin not intended for export.

This tax shall be levied only at places of consumption and not on goods while in transit, and the Chinese Government solemnly undertake that the arrangements which they may make for its collection shall in no way interfere with foreign goods or with native goods for export. The fact of goods being of foreign origin shall of itself free them from all taxation, delay, or stoppage, after having passed the Custom-House.

Foreign goods which bear a similarity to native goods shall be furnished by the Custom-House, if required by the owner, with a protective certificate for each package, on payment of import duty and surtax, to prevent the risk of any dispute in the interior.

Native goods brought by junks to Open Ports, if intended for local consumption—irrespective of the nationality of the owner of the goods—shall be reported at the Native Custome-House only, where the Consumption Tax may be levied.

China is at liberty to fix the amount of this (Consumption) tax, which may vary according to the nature of the merchandise concerned, that is to say, according as the articles are necessaries of life or luxuries; but it shall be levied at a uniform rate on goods of the same description, no matter whether carried by junk, sailing-vessel, or steamer. As mentioned in Section 3, the Consumption Tax is not to be levied within foreign settlements or concessions.

Sec. 9. An excise equivalent to double the import duty as laid down in the Protocol of 1901 is to be charged on all machinemade yarn and cloth manufactured in China, whether by foreigners at the Open Ports or by Chinese anywhere in China.

A rebate of the import duty and two-thirds of the Import Surtax is to be given on raw cotton imported from foreign countries, and of all duties, including Consumption Tax, paid on Chinese raw cotton used in mills in China.

Chinese machine-made yarn or cloth having paid excise is to be free of Export Duty, Export Surtax, Coast-Trade Duty, and Consumption Tax. This Excise is to be collected trough the Imperial Maritime Customs.

The same principle and procedure are to be applied to all other products of foreign type turned out by machinery, whether by foreigners at the Open Ports or by Chinese anywhere in China.

This stipulation is not to apply to the out-turn of the Hanyang and Ta Yeh Iron Works in Hupeh and other similar existing Government works at present exempt from taxation; or to that of Arsenals, Government Dockyards, or establishments of that nature for Government purposes which may hereafter be erected.

Sec. 10. A member of the Imperial Maritime Customs Foreign Staff shall be selected by each of the Governors-General and Governors, and appointed, in consultation with the Inspector-General of Imperial Maritime Customs to each province for duty in connection whith Native Customs Affairs, Consumption Tax, Salt and Native Opium Taxes. These officers shall exercise an efficient supervision of the working of these departments, and in the event of their reporting any case of abuse, illegal exaction, obstruction to the movement of goods, or other cause of complaint, the Governor-General or Governor concerned will take immediate steps to put an end to same.

Sec. 11. Cases where illegal action as described in this Article is complained of shall be promptly investigated by an officer of the

Chinese Government of sufficiently high rank, in conjunction with a British officer and an officer of the Imperial Maritime Customs, each of sufficient standing; and in the event of its being found by a majority of the investigating officers that the complaint is well founded and loss has been incurred, due compensation is to be at once paid from the Surtax funds, through the Imperial Maritime Customs at the nearest open port. The High Provincial Officials are to be held responsible that the officer guilty of the illegal action shall be severely punished and removed from his post.

If the complaint turns out to be without foundation complainant shall be held responsible for the expenses of the investigation.

His Britannic Majesty's Minister will have the right to demand investigation where from the evidence before him he is satisfied that illegal exactions or obstruction havs occurred.

Sec. 12. The Chinese Government agree to open to foreign trade, on the same footing as the places opened to foreign trade by the Treaties of Nanking and Tientsin, the following places namely:

Ch'angsha in Hunan;
Wanhsien in Szechuen;
Nganking in Anhui;
Waichow (Hui-chow) in Kuangtung: and
Kongmoon (Chiang-mên) in Kuangtung.

Foreigners residing in these Open Ports are to observe the Municipal and Police Regulations on the same footing as Chinese residents, and they are not to be entitled to establish Municipalities and Police of their own within the limits of these Treaty ports except with the consent of the Chinese authorities.

If this Article does not come into operation the right to demand under it the openig of these ports, with the exception of Kongmoon, which is provided for in Article X, shall lapse.

Sec. 13. Subject to the provisions of Section 14, the arrangements provided for in this Article are to come into force on the 1st January, 1904.

By that date all *likin* barriers should be removed and officials employed in the collection of taxes and dues prohibited by this Article shall be removed from their posts.

Sec. 14. The condition on which the Chinese Government enter into the present engagement is that all Powers entitled to most-favoured-nation treatment in China enter into the same engagements as Great Britain with regard to the payment of surtaxes and other obligations imposed by this Article on His Britannic Majesty's Government and subjects.

The conditions on which His Britannic Majesty's Government enter into the present engagement are:

(1.) That all Powers who are now or who may hereafter become entitled to most-favoured-nation treatment in China enter into the same engagements:

(2.) And that their assent is neither directly nor indirectly made dependent on the granting by China of any political concession, or of any exclusive commercial concession.

Sec. 15. Should the Powers entitled to most-favoured-nation treatment by China have failed to agree to enter into the engagements undertaken by Great Britain under this Article by the 1st January 1904, then the provisions of the Article shall only come into force when all the Powers have signified their acceptance of these engagements.

Sec. 16. When the abolition of *likin* and other forms of internal taxation on goods as provided for in this Article has been decided upon and sanctioned, an Imperial Edict shall be published in due form on yellow paper and circulated, settin forth the abolition of all *likin* taxation, *likin* barriers and all descriptions of internal taxation on goods, except as provided for in this Article.

The Edict shall state that the Provincial High Officials are responsible that any official disregarding the letter or spirit of its injunction shall be severely punished and removed from his post.

Article IX.

The Chinese Government, recognizing that it is advantageous for the country to develop its mineral resources, and that it is desirable to attract foreign as well as Chinese capital to embark in mining enterprises, agree within one year form the signing of this Treaty to initiate and conclude the revision of the existing Mining Regulations. China will, with all expedition and earnestness, go into the whole question of Mining Rules and, selecting from the Rules of Great Britain, India, and other countries, regulations which seem applicable to the condition of China, she will recast her present Mining Rules in such a way as, while promoting the interests of Chinese subjects and not injuring in any way the sovereign rights of China, shall offer no impediment to the attraction of foreign capital or place foreign capitalists at a greater disadvantage that they would be under generally accepted foreign Regulations.

Any mining concession granted after the publication of these new Rules shall be subject to their provisions.

Article X.

Whereas in the year 1898 the Inland Waters of China were opened to all such steam-vessels, native or foreign, as might be especially registered for that trade at the Treaty ports, and whereas the Regulations dated the 28th July, 1898, and Supplementary Rules dated September, 1898, have been found in some respects inconvenient in working, it is now mutually agreed to amend them and to annex such nev Rules to this Treaty. These Rules shall remain iu force until altered by mutual consent.

It is further agreed that Kongmoon shall be opened as a Treaty port, and that, in addition to the places named in the special Article of the Burmah Convention of the 4th February, 1897, British steamers shall

be allowed to land or ship cargo and passengers, under the same regulations as apply to the „Ports of Call“ on the Yang-tsze River, at the following „Ports of Call“: Pak Tau Hau (Pai-t'u k'ou), Lo Ting Hau (Lo-ting k'ou), and Do Sing (Tou-ch'êng); and to land or discharge passengers at the following ten passenger landing stages on the West River: — Yung Ki (Jung-chi), Mah Ning (Ma-ning), Kau Kong (Chiu-chiang), Kulow (Ku-lao), Wing On (Yung-an), How Lik (Hou-li), Luk Pu (Lu-pu), Yuet Sing (Yüeh-ch'eng), Luk To (Lu-tu), and Fung Chuen (Fêng-ch'uan).

Article XI.

His Britannic Majesty's Government agree to the prohibition of the general importation of morphia into China, on condition, however, that the Chinese Government will allow of its importation, on payment of the Tariff import duty and under special permit, by duly qualified British medical practitioners and for the use of hospitals, or by British chemists and druggists who shall only be permitted to sell it in small quantities and on receipt of a requisition signed by a duly qualified foreign medical practitioner.

The special permits above referred to will be granted to an intending importer on his signing a bond before a British Consul guaranteeing the fulfilment of these conditions. Should an importer be found guilty before a British Consul of a breach of his bond, he will not be entitled to take out another permit. Any British subject importing morphia without a permit shall be liable to have such morphia confiscated.

This Article will come into operation on all other Treaty Powers agreeing to its conditions, but any morphia actually shipped before that date will not be affected by this prohibition.

The Chinese Government, on their side, undertake to adopt measures at once, to prevent the manufacture of morphia in China.

Article XII.

China having expressed a strong desire to reform her judicial system and to bring it into accord with that of Western nations, Great Britain agrees to give every assistance to such reform, and she will also be prepared to relinquish her extra-territorial rights when she is satisfied that the state of the Chinese laws, the arrangemant for their administration, and other considerations warrant her in so doing.

Article XIII.

The missionary question in China being, in the opinion of the Chinese Government, one requiring careful consideration, so that, if possible, troubles such as have occurred in the past may be averted in the future, Great Britain agrees to join in a Commission to investigate this question, and, if possible, to devise means for securing permanent peace between converts and non-converts, should such a Commission be formed by China and the Treaty Powers interested.

Article XIV.

Whereas under Rule V appended to the Treaty of Tientsin of 1858, British merchants are permitted to export rice and all other grain from one port of China to another under the same conditions in respect of security as copper „cash," it is now agreed that in cases of expected scarcity or famine from whatsoever cause in any district, the Chinese Government shall, on giving twenty-one days' notice, be at liberty to prohibit the shipment of rice and other grain from such district.

Should any vessel specially chartered to load rice or grain previously contracted for, have arrived at her loading port prior to or on the day when a notice of prohibition to export comes into force she shall be allowed an extra week in which to ship her cargo.

If, during the existence of this prohibition, any shipment of rice or grain is allowed by the authorities, the prohibition shall, *ipso facto*, be considered cancelled and shall not be reimposed until six weeks' notice has been given.

When a prohibition is notified, it will be stated whether the Government have any Tribute or Army Rice which they intend to ship during the time of prohibition, and if so, the quantity shall be named.

Such rice shall not be included in the prohibition, and the Customs shall keep a record of any Tribute or Army Rice so shipped or landed.

The Chinese Government undertake that no rice, other than Tribute or Army Rice belonging to the Government, shall be shipped during the period of prohibition.

Notifications of prohibitions, and of the quantities of Army or Tribute Rice for shipment shall be made by the Governors of the provinces concerned.

Similarly, notifications of the removals of prohibitions shall be made by the same authorities.

The export of rice and other grain to foreign countries remains prohibited.

Article XV.

It is agreed that either of the High Contracting Parties to this Treaty may demand a revision of the Tariff at the end of ten years; but if no demand be made on either side within six months after the end of the first ten years, then the Tariff shall remain in force for ten years more, reckoned from the end of the preceding ten years; and so it shall be at the end of each successive ten years.

Any Tariff concession which China may hereafter accord to articles of the produce or manufacture of any other State shall immediately be extended to similar articles of the produce or manufacture of His Britannic Majesty's Dominions by whomsoever imported.

Treaties already existing between the United Kingdom and China shall continue in force in so far as they are not abrogated or modified by stipulations of the present Treaty.

Article XVI.

The English and Chinese texts of the present Treaty have been carefully compared, but in the event of there being any difference of meaning between them, the sense as expressed in the English text shall be held to be the correct sense.

The ratifications of this Treaty, under the hand of his Majesty the King of Great Britain and Ireland, and of His Majesty the Emperor of China respectively, shall be exchanged at Peking within a year from this day of signature.

In token whereof the respective Plenipotentiaries have signed and sealed this Treaty, two copies in English and two in Chinese.

Done at Shanghai this 5th day of September in the year of our Lord 1902; corresponding with the Chinese date, the 4th day of the 8th moon of the 28th year of Kwang Hsü.

(L. S.) *Jas. L. Mackay.*

(Signature of his Excellency Lü Hai-huan.)
(Signature of his Excellency Shêng Ssüan-huai.)

(Seal of the Chinese Plenipotentiaries.)

Annex A (1).

(Translation.)

Lü, President of the Board of Works;

Shêng, Junior Guardian of the Heir-Apparent, Vice President of the Board of Works;

Imperial Chinese Commissioners, for dealing with questions connected with the Commercial Treaties, to

Sir James Mackay, His Britannic Majesty's Special Commissioner for the discussion of Treaty matters.

Shanghai: K. H. xxviii, 7th moon, 11th day. (received August 15, 1902).

We have the honour to inform you that we have received the following telegram from his Excellency Liu, Governor-General of the Liang Chiang, on the subject of clause 2. mutually agreed upon by us:

„As regards this clause, it is necessary to insert therein a clear stipulation, to the effect that, no matter what changes may take place in the future, all customs duties must continue to be calculated on the basis of the existing higher rate of the Haikwan Tael over the Treasury Tael, and that the ‚touch' and weight of the former must be made good."

As we have already arranged with you that a declaration of this kind should be embodied in an official Note, and form an Annex to the present Treaty, for purposes of record, we hereby do ourselves the honour to make this communication.

(Seal of the Imperial Commissioners for dealing with questions connected with Treaty Revision.)

Annex A (2).

Shanghai, August 18. 1902.

Gentlemen,

I have the honour to acknowledge the receipt of your despatch of the 14th instant forwarding copy of a telegram from his Excellency Liu, Governor-General of the Liang Chiang, on the subject of Article II. of the new Treaty, and in reply I have the honour to state that his Excellency's understanding of the Article is perfectly correct.

I presume the Chinese Government will make arrangements for the coinage of a national silver coin of such weight and touch as may be decided upon by them. These coins will be made available to the public in return for a quantity of silver bullion of equivalent weight and fineness plus the usual mintage charge.

The coins which will become the national coinage of China will be declared by the Chinese Government to be legal tender in payment of Customs duty and in discharge of obligations contracted in Haikwan taels, but only at their proportionate value to the Haikwan tael, whatever that may be.

I have &c.

(Signed) *Jas. L. Mackay.*

Their Excellencies

Lü Hai-huan and Shêng Hsüan-huai

&c. &c &c.

Annex B (1).

(Translation.)

Lü, President of the Board of Works;

Shêng, Junior Guardian of the Heir-Apparent, Vice-President of the Board of Works;

Imperial Chinese Commissioners for dealing with questions connected with the Commercial Treaties, to

Sir James L. Mackay, His Britannic Majesty's Special Commissioner.

Shanghai, September 2. 1902.

We have the honour to inform you that on the 22nd August, we, in conjunction with the Governors-General of the Liang Chiang and the Hu-kuang Provinces, their Excellencies Liu and Chang addressed the following telegraphic Memorial to the Throne:

„Of the revenue of the different Provinces derived from *likin* of all kinds, a portion is appropriated for the service of the foreign loans, a portion for the Peking Government, and the balance is reserved for the local expenditure of the Provinces concerned.

„In the negotiations now being conducted with Great Britain for the amendment of the Commercial Treaties, a mutual arrangement has been come to providing for the imposition of additional taxes, in compensation for the abolition of all kinds of *likin* and other imposts on goods, prohibited by Article VIII. After payment of interest and sinking fund on the existing foreign loan, to the extent to which *likin* is thereto pledged, these

additional taxes shall be allocated to the various Provinces to make up deficiencies and replace revenue, in order that no hardships may be entailed on them. With a view to preserving the original intention underlying the proposal to increase the duties in compensation for the loss of revenue derived from *likin* and other imposts on goods, it is further stipulated that the surtaxes shall not be appropriated for other purposes, shall not form part of the Imperial Maritime Customs revenue proper, and shall in no case be pledged as security for any new foreign loan.

„It is therefore necessary to memoralize for the issue of an Edict, giving effect to the above stipulations and directing the Board of Revenue to find out what proportion of the provincial revenues derived from *likin* of all kinds, now about to be abolished, each Province has hitherto had to remit, and what proportion it has been entitled to retain, so that, when the Article comes into operation, due apportionment may be made accordingly, thus providing the Provinces with funds available for local expenditure, and displaying equitable and just treatment towards all.“

On the 1st instant an Imperial Decree „Let action, as requested, be taken“ was issued, and we now do ourselves the honour reverently to transcribe the same for your information.

(Seal of the Imperial Commissioners for dealing with questions connected with Treaty Revision.)

Annex B (2).

Shanghai, September 5th, 1902.

Gentlemen,

I have the honour to acknowledge the receipt of your despatch of the 2nd instant forwarding the text of the Memorial and Decree dealing with the disposal of the surtaxes.

I understand that the surtaxes in addition to not being pledged for any new foreign loan are not to be pledged to, or held to be security for, liabilities already contracted by China except in so far as *likin* revenue has already been pledged to an existing loan.

I also understand from the Memorial that the whole of the surtaxes provided by Article VIII of the New Treaty goes to the Provinces in proportions to be agreed upon between them and the Board of Revenue, but that out of these surtaxes each Province is obliged to remit to Peking the same contribution as that which it has hitherto remitted out of its *likin* collections, and that the Provinces also provide as hitherto out of these surtax funds whatever may be necessary for the service of the foreign loan to which *likin* is partly pledged.

I hope your Excellencies will send me a reply to this despatch and that you will agree to this correspondence forming part of the Treaty as an Annex.

I have, &c.

(Signed) *Jas. L. Mackay.*

Their Excellencies

Lü Hai-huan and Shêng Hsüan-huai,

&c. &c. &c.

Annex B (3).

(Translation.)

Lü, President of the Board of Works;

Shêng, Junior Guardian of the Heir-Apparent, Vice-President of the Board of Works;

Imperial Chinese Commissioners for dealing with questions connected with the Commercial Treaties, to

Sir James L. Mackay, His Britannic Majesty's Special Commissioner.

Shanghai, September 5th, 1902.

We have the honour to acknowledge the receipt of your communication of to-day's date with regard to the allocation of the surtax funds allotted to the Provinces, and to inform you that the views therein expressed are the same as our own.

We would, however, wish to point out that, were the whole amount of the allocation due paid over to the Provinces, unnecessary expense would be incurred in the retransmission by them of such portions thereof as would have to be remitted to Peking in place of the contributions hitherto payable out of *likin* revenue. The amount, therefore, of the allocation due to the Provinces, arranged between them and the Board of Revenue, will be retained in the hands of the Maritime Customs, who will await the instructions of the Provinces in regad to the remittance of such portion thereof as may be necessary to fulfil their obligations, and (on receipt of these instructions) will send forward the amount direct. The balance will be held to the order of the Provinces.

In so far as *likin* is pledged to the service of the 1898 Loan, a similar method of procedure will be adopted.

As you request that this correspondence be annexed to the Treaty, we have the honour to state that we see no objection to this being done.

(Seal of the Imperial Commissioners for dealing with questions connected with Treaty Revision.)

Annex C.

Inland Waters Steam Navigation.

Additional Rules.

1. British steam ship owners are at liberty to lease warehouses and jetties on the banks of waterways from Chinese subjects for a term not exceeding twenty-five years, with option of renewal on terms to be mutually arranged. In cases where British merchants are unable to secure warehouses and jetties from Chinese subjects on satisfactory terms, the local officials, after consultation with the Minister of Commerce, shall arrange to provide these on renewable lease as above mentioned at current equitable rates.

2. Jetties shall only be erected in such positions that they will not obstruct the inland waterway or interfere with navigation, and with the sanction of the nearest Commissioner of Customs; such sanction, however, shall not be arbitrarily withheld.

3. British merchants shall pay taxes and contributions on these warehouses and jetties on the same footing as Chinese proprietors of similar properties in the neighbourhood. British merchants may only employ Chinese agents and staff to reside in warehouses so leased at places touched at by steamers engaged in inland traffic to carry on their business; but British merchants may visit these places from time to time to look after their affairs. The existing rights of Chinese jurisdiction over Chinese subjects shall not by reason of this clause be diminished or interfered with in any way.

4. Steam vessels navigating the inland waterways of China shall be responsible for loss caused to riparian proprietors by damage which they may do to the banks or works on them and for the loss which may be caused by such damage. In the event of China desiring to prohibit the use of some particular shallow waterway by launches, because there is reason to fear that the use of it by them would be likely to injure the banks and cause damage to the adjoining country, the British authorities, when appealed to, shall, if satisfied of the validity of the objection, prohibit the use of that waterway by British launches, provided that Chinese launches are also prohibited from using it.

Both Foreign and Chinese launches are prohibited from crossing dams and weirs at present in existence on inland waterways where they are likely to cause injury to such works, which would be detrimental to the water service of the local people.

5. The main object of the British Government in desiring to see the inland waterways of China opened to steam navigation being to afford facilities for the rapid transport of both foreign and native merchandise, hey undertake to offer no impediment to the transfer to at Chinese Company and the Chinese flag of any British Steamer which may now or hereafter be employed on the inland waters of China, should the owner be willing to make the transfer.

In event of a Chinese company registered under Chinese law being formed to run steamers on the inland waters of China the fact of British subjects holding shares in such a company shall not entitle the steamers to fly the British flag.

6. Registered steamers and their tows are forbidden, just as junks have always been forbidden, to carry contraband goods. Infraction of this rule will entail the penalties prescribed in the Treaties for such an offence, and cancellation of the Inland Waters Navigation Certificate carried by the vessels, which will be prohibited from thereafter plying on inland waters.

7. As it is desirable that the people living inland should be disturbed as little as possible by the advent of steam vessels to which they are not accustomed, inland waters not hitherto frequented by steamers shall be opened as gradually as may see prospect of remunerative trade.

In cases where it is intended to run steam vessels on waterways on which such vessels have not hitherto run, intimation shall be made to the Commissioner of Customs at the nearest open port who shall report the matter to the Ministers of Commerce. The latter in conjunction with the Governor-General or Governor of the Province, after careful consideration of all the circumstances of the case, shall at once give their approval.

8. A registered steamer may ply within the waters of a port, or from one open port or ports to another open port or ports, or from one open port or ports to places inland, and thence back to such port or ports. She may, on making due report to the Customs, land or ship passengers or cargo at any recognized places of trade passed in the course of the voyage; but may not ply between inland places exclusively except with the consent of the Chinese Government.

9. Any cargo and passenger boats may be towed by steamers. The helmsman and crew of any boat towed shall be Chinese. All boats, irrespective of ownership, must be registered before they can proceed inland.

10. These Rules are supplementary to the Inland Steam Navigation Regulations of July and September, 1898. The latter, where untouched by the present Rules, remain in full force and effect; but the present Rules hold in the case of such of the former Regulations as the present Rules affect. The present Rules, and the Regulations of July and September, 1898, to which they are supplementary, are provisional, and may be modified, as circumstances require, by mutual consent.

Done at Shanghai this 5th day of September in the year of our Lord, 1902; corresponding with the Cinese date, the 4th day of the 8th moon of the 28th year of Kwang Hsü.

(L. S.) *Jas. L. Mackay.*

(Signature of his Excellency Lü Hai-huan.)
(Signature of his Excellency Shêng Hsüan-huai.)

(Seal of the Chinese Plenipotentiaries.)

71.

SUISSE.

Loi sur le Tarif douanier du 10 octobre 1902.

Eidgenössische Gesetzsammlung No. 5. 1905.

Die Bundesversammlung der schweizerischen Eidgenossenschaft, gestützt auf die Art. 28 und 29 der schweizerischen Bundesverfassung vom 29. Mai 1874, nach Einsicht einer Botschaft des Bundesrates vom 12. Februar 1902, beschliesst:

Allgemeine Bestimmungen.

Art. 1. Die Gegenstände, welche in das Gebiet der schweizerischen Eidgenossenschaft eingeführt oder aus demselben ausgeführt werden, sind nach dem beigefügten Tarif zu verzollen, soweit nicht andere Bestimmungen des vorliegenden Gesetzes oder Verträge Ausnahmen festsetzen.

Art. 2. Im Tarif nicht genannte Waren sind durch den Bundesrat den ihrer Natur entsprechenden Positionen zuzuteilen. Es soll ein Warenverzeichnis herausgegeben und periodisch ergänzt werden.

Rekurse gegen Entscheidungen der untern Behörden über die Anwendung des Zolltarifs werden, nötigenfalls nach Einholung von Expertengutachten, vom Bundesrate letztinstanzlich entschieden.

Art. 3. Der Bundesrat ist befugt, unter ausserordentlichen Verhältnissen Durchfuhrgebühren zu erheben.

Art. 4. Für Waren aus solchen Staaten, welche schweizerische Waren mit besonders hohen Zöllen belegen oder sie ungünstiger behandeln, als die Waren anderer Staaten, kann der Bundesrat die Ansätze des Generaltarifs jederzeit nach seinem Ermessen erhöhen oder, soweit das vorliegende Gesetz Zollfreiheit bestimmt, Zölle aufstellen.

Der Bundesrat ist überhaupt ermächtigt, in Fällen, in welchen der schweizerische Handel durch Massregeln des Auslandes gehemmt wird, oder in welchen die Wirkung der schweizerischen Zölle durch Ausfuhrprämien oder ähnliche Begünstigungen beeinträchtigt wird, die ihm geeignet erscheinenden Anordnungen zu treffen.

Der Bundesrat kann ferner unter ausserordentlichen Umständen, namentlich im Falle von Teuerung der Lebensmittel, vorübergehend die ihm zweckmässig erscheinenden Tarifermässigungeu vornehmen oder sonstige Erleichterungen gewähren.

Art. 5. Von den in den Art. 3 und 4 vorgesehenen Verfügungen hat der Bundesrat der Bundesversammlung bei ihrer nächsten Zusammenkunft Kenntnis zu geben. Dieselbe entscheidet über die Fortdauer der Verfügungen.

Art. 6. Der Bundesrat wird im Veredlungsverkehr weitere Ausnahmen im Sinne der Zollermässigung oder der gänzlichen Zollbefreiung bewilligen.

Solche Bewilligungen sind zu erteilen, wenn besondere Interessen der Industrie es erfordern und keine überwiegenden Interessen entgegenstehen, sowie unter der Bedingung, dass die wesentliche Beschaffenheit der Ware durch die Veredlung nicht verändert wird.

Diese Bestimmungen beziehen sich sowohl auf den aktiven und Transitveredlungsverkehr, bei dem die Waren zur Veredlung oder zur Reparatur aus dem Auslande vorübergehend in die Schweiz eingeführt, als auf den passiven Veredlungsverkehr, bei dem die Waren zur Veredlung oder zur Reparatur aus der Schweiz vorübergehend nach dem Auslande ausgeführt werden.

Art. 7. Bei der Einfuhr sind zollfrei:

a) Alle Gegenstände, welche im Zolltarif oder durch Verträge mit ausländischen Staaten als zollfrei bezeichnet sind.

b) Alle Gegenstände, welche zum eigenen Gebrauche der bei der Eidgenossenschaft beglaubigten diplomatischen Verteter des Auslandes dienen und nicht zur Wiederveräusserung bestimmt sind, insofern von dem betreffenden Staate Gegenrecht gehalten wird.

c) 1. Gebrauchte Hausgeräte und Effekten, gebrauchte Fabrikgerätschaften und gebrauchtes Handwerkszeug von Anziehenden zur eigenen Benutzung.

2. Auf besondere Erlaubnis Ausstattungsgegenstände (neue Hausgeräte aller Art sowie Kleidungsstücke, Wäsche und sonstige Effekten) von solchen Personen, welche sich aus Veranlassung ihrer Verheiratung in dem Gebiete der Schweiz niederlassen.

3. Gebrauchte Hausgeräte und Effekten, welche nachgewiesenermassen als Erbschaftsgut eingehen.

Die Zollbefreiung ad 1, 2 und 3 ist nur zu gewähren, sofern von dem betreffenden fremden Staate Gegenrecht gehalten wird.

d) Reiseeffekten (Kleidungsstücke, Wäsche u. dgl.), welche Reisende, Fuhrleute und Schiffer etc. zu ihrem Gebrauche, auch gebrauchtes Handwerkszeug, welches reisende Handwerker, sowie Geräte und Intrumente, welche reisende Künstler zur Ausübung ihres Berufes mit sich führen, auch andere Gegenstände der bezeichneten Art, welche den genannten Personen vorausgehen oder nachfolgen; Verzehrungsgegenstände zum Reiseverbrauch.

e) Wagen von Ausländern, einschliesslich der Eisenbahnfahrzeuge ausländischer Bahnverwaltungen, sowie ausländische Wasserfahrzeuge, welche bei dem Eingang über die Grenze zum Personen- und Warentransport dienen und nicht in der Schweiz verbleiben; leer zurückkehrende Eisenbahnfahrzeuge inländischer Bahnverwaltungen; Pferde und andere Tiere, welche als Bespannungen von Reise- und Lastwagen eingeführt werden und zur Wiederausfuhr bestimmt sind.

f) Armenfuhren mit ihrem Gepäck.

g) Alle zollpflichtigen Warensendungen, bei welchen der Zollbetrag weniger als 10 Rappen ausmacht; ferner die im Postverkehr eingehenden Warensendungen, deren Bruttogewicht 500 Gramm nicht übersteigt; alle von einer einzelnen Person eingebrachten, nach Gewicht zollpflichtigen Waren bis auf 250 Gramm Gesamtgewicht.

Die Anwendung dieser Bestimmung kann, wenn sich Missbräuche zeigen, vom Bundesrate ganz oder teilweise sistiert werden.

h) Unverkäufliche Warenmuster (solche von Verzehrungsgegenständen ausgenommen), einschliesslich der Musterkarten und Muster in Abschnitten oder Proben ohne Wert.

i) Leere Fässer, Säcke und andere Gefässe, welche in die Schweiz eintreten, um gefüllt an den Absender zurückgesandt oder für dessen Rechnung an eine andere Bestimmung im Auslande wieder ausgeführt zu werden, sowie solche, welche an den ursprünglichen Absender in der Schweiz zurückkehren, nachdem sie gefüllt ausgeführt worden.

k) Kunstgegenstände für öffentliche Zwecke, ferner Naturalien, kunstgewerbliche Gegenstände, gewerblich-technische Instrumente, Apparate und Modelle, antiqnarische und ethnographische Gegenstände, welche nachweislich für öffentliche Sammlungen und Unterrichtsanstalten eingehen.

l) Kriegsmaterial, welches vom Bunde zu Zwecken der Landesverteidigung eingeführt wird.

m) Tiere, Gerätschaften und andere Gegenstände, die von Inländern zur Bewirtschaftung auf ausländischem Gebiete, jedoch nicht über 10 Kilometer von der Landesgrenze entfernt gelegener Grundstücke ausgeführt wurden und innerhalb einer bestimmten Frist wieder in die Schweiz zurückkehren; desgleichen solche, welche von Ausländern zur Bewirtschaftung auf schweizerischem Gebiete, jedoch nicht über 10 Kilometer landeinwärts gelegener Grundstücke eingeführt werden und nur vorübergehend in der Schweiz verbleiben; im letzteren Falle jedoch nur, wenn und insoweit von dem betreffenden fremden Staate Gegenrecht gehalten wird.

n) Die rohen Bodenerzeugnisse von denjenigen auf ausländischem Gebiete innerhalb der Grenzzone von 10 Kilometern gelegenen Grundstücken, welche Einwohner der Eidgenossenschaft (Besitzer, Nutzniesser oder Pächter) selbst bebauen oder auf eigene Rechnung durch Drittpersonen bebauen lassen.

o) Milch, Eier, frische Fische, Krebse, Frösche, Schnecken, frische Feld- und Gartengewächse, insofern diese Gegenstände für den Markt- oder Hausierverkehr bestimmt sind und von den Feilbietenden in die Schweiz getragen oder nur auf kleinen Handwagen geführt werden. Immerhin ist hierbei die Einhaltung der Zollstrasse und Anmeldung auf dem Grenzzollamt erforderlich.

p) Waren und Vieh schweizerischen Ursprungs, welche innerhalb der durch Verordnung festzusetzenden Fristen wegen verweigerter Annahme durch den Adressaten oder wegen Unverkäuflichkeit aus dem Auslande an den ursprünglichen Absender in der Schweiz zurückkehren.

Das Zolldepartement ist überdies ermächtigt, auch in andern als den oben erwähnten Fällen für ins Ausland exportierte Erzeugnisse schweizerischen Ursprungs, die vom Absender innert einer durch Verordnung zu bestimmenden Frist zurückbezogen werden, bei der Wiedereinfuhr Zollbefreiung zu gestatten, wenn der schweizerische Ursprung der Ware und deren Ausfuhr gehörig nachgewiesen werden können.

q) Gegenstände, welche aus der Schweiz durch das Ausland wieder in die Schweiz gehen.

In allen unter a—q hiervor erwähnten Fällen bleiben die nähern Bestimmungen und Kontrollmassnahmen der Vollziehungsbehörde vorbehalten.

Art. 8. Alle Gewichtszölle werden, sofern das Gesetz nichts anderes bestimmt, vom Bruttogewicht erhoben. Der Bundesrat wird auf dem Verordnungswege Vorschriften erlassen für Sendungen, bei welchen eine Umgehung der Bruttoverzollung versucht wird. Unter Vorbehalt der Bestimmungen in Art. 7, litt. g, sind Bruchteile eines Kilogramms als ganzes Kilogramm zu behandeln.

Bruchteile eines Rappens werden nicht berechnet.

Art. 9. Warenführer, von denen keine Gewichtsangabe erhältlich ist, haben für die dadurch erforderlich werdende Gewichtsausmittlung eine durch Verordnung festzusetzende Gebühr zu bezahlen.

Art. 10. Waren, deren Beschaffenheit oder Verschluss eine Revision nicht zulässt, oder bei welchen der Warenführer eine Revision nicht zugeben will, können mit dem höchsten Zollansatze belegt werden.

Art. 11. Güter mit zweideutiger Inhaltsbezeichnung unterliegen der höchsten Gebühr, die ihnen nach Massgabe ihrer Art auferlegt werden kann.

Art. 12. Wenn Waren verschiedener Art, welche verschiedene Gebühren zu bezahlen hätten, in einem und demselben Frachtstück verpackt sind, und es erfolgt nicht eine genügende Angabe über die Menge jeder einzelnen Ware, so ist der Zoll für das Gesamtgewicht nach demjenigen Ansatz zu beziehen, welchen der mit der höchsten Gebühr belastete Teil der Ware zu bezahlen hätte.

Art. 13. Mit Bezug auf die Einfuhr von gebrannten Wassern zum Trinkverbrauch, von starken Weinen und von Rohstoffen zur Erzeugung gebrannter Wasser bleiben die Bestimmungen des Alkoholgesetzes und der Ausführungsverordnungen zu demselben vorbehalten.

Alkoholhaltige oder mit Alkohol hergestellte Produkte, die nicht zu Trinkzwecken dienen, können bei der Einfuhr durch Privatpersonen mit einer Monopolgebühr von Fr. 1.30 per Grad und Meterzentner Brutto-

gewicht belegt werden; vorbehalten bleiben die Bestimmungen von Art. 13 des Alkoholgesetzes.

Art. 14. Für die Kontrolle der die schweizerische Zollgrenze überschreitenden Waren ist eine statistische Gebühr zu entrichten, wie folgt:

1 Rp. per q., für die nach dem Gewichte,
1 Rp. per Stück, für die nach der Stückzahl

zu deklarierenden Waren.

Diese Gebühr soll für je eine Abfertigung, beziehungsweise Sendung, nicht weniger als 5 Rappen betragen.

Von der Bezahlung derselben sind ausgenommen:

a) Waren, für welche ein Zoll entrichtet wird.
b) Waren, welche im Grenzverkehr oder im kleinen Marktverkehr ein- oder ausgehen, sowie Postsendungen.

Der Bundesrat ist ermächtigt, für Wagenladungen von einheitlicher Warengattung im Eisenbahnverkehr, vorbehaltlich jederzeitigen Widerrufs, eine Ermässigung der statistischen Gebühr anzuordnen und diejenigen Warengattungen zu bezeichnen, auf welche eine solche Gebührenermässigung Anwendung zu finden hat.

Art. 15. Mit Bezug auf Einfuhr, Ausfuhr oder Durchfuhr bleiben alle im Interesse der öffentlichen Gesundheitspflege, der Lebensmittel- und Viehseuchenpolizei nötigen Bestimmungen und Massnahmen vorbehalten.

Betreffend das zur Sömmerung oder Winterung in die Schweiz eingeführte oder aus der Schweiz ausgeführte Gross- und Kleinvieh erlässt der Bundesrat, unter Berücksichtigung der lokalen Verhältnisse, besondere Vorschriften.

Art. 16. Da, wo schweizerische Gebietsteile vom Auslande oder ausländische Gebietsteile von der Schweiz enklaviert sind, sowie bei ausserordentlichen topographischen Verhältnissen, wird der Bundesrat zur Wahrung der Interessen der dabei beteiligten schweizerischen Landesgegenden die erforderlichen besondern Bestimmungen treffen.

Art. 17. Der Bundesrat wird die zur Sicherung des Grenz- und Marktverkehrs allfällig noch erforderlichen weitern Begünstigungen eintreten lassen.

Art. 18. Der Bundesrat wird beauftragt, die erforderlichen Vollziehungsverordnungen zu diesem Gesetze zu erlassen und einen Gebrauchstarif mit selbständiger Numerierung aufzustellen.

Art 19. Durch gegenwärtiges Gesetz sind aufgehoben:

a) Das Bundesgesetz, betreffend den schweizerischen Zolltarif vom 10. April 1891 (A. S. n. F. XII, 457).
b) Alle Bestimmungen früherer Gesetze, welche mit dem gegenwärtigen Gesetze sich im Widerspruche befinden.

Art. 20. Der Bundesrat ist beauftragt, auf Grundlage der Bestimmungen des Bundesgesetzes vom 17. Juni 1874, betreffend Volks-

abstimmungen über Bundesgesetze und Bundesbeschlüsse, die Bekanntmachung dieses Gesetzes zu veranstalten und den Beginn der Wirksamkeit desselben festzusetzen.

Also beschlossen vom Nationalrate,

Bern, den 9. Oktober 1902.

Der Präsident: Dr. *Iten.*
Der Protokollführer: *Ringier.*

Also beschlossen vom Ständerate,

Bern, den 10. Oktober 1902.

Der Präsident: *Casimir von Arx.*
Der Protokollführer: *Schatzmann.*

Der schweizerische Bundesrat, auf den Antrag seines Handelsdepartements und seines Zolldepartements, beschliesst:

1. Das Bundesgesetz vom 10. Oktober 1902 betreffend den schweizerischen Zolltarif, das in der Volksabstimmung vom 15. März 1903 angenommen wurde, tritt mit den durch die Verträge mit ausländischen Staaten erfolgten Änderungen am 1. Januar 1906 in Kraft.

2. Unbeschadet der ihm nach Artikel 4 der allgemeinen Bestimmungen jenes Gesetzes zustehenden Befugnisse behält sich der Bundesrat vor, einzelne Ansätze des neuen Generaltarifes, wenn die Umstände es erfordern sollten, schon vor dem genannten Zeitpunkte in Wirksamkeit zu setzen.

Bern, den 4. April 1905.

Im Namen des schweiz. Bundesrates,

Der Bundespräsident:
Ruchet.

Der Kanzler der Eidgenossenschaft:
Ringier.

72.

GRÈCE, ETATS-UNIS.

Convention relative aux droits et immunités du corps consulaire; signée à Athènes le $\frac{\text{19 novembre}}{\text{2 décembre}}$ 1902.*)

Publication Officielle des Etats-Unis d'Amérique.

The President of the United States of America and His Majesty the King of the Hellenes, being mutually desirous of defining the right, privileges and immunities of consular officers in the two Countries, deem it expedient to conclude a consular convention for that purpose, and have accordingly named as their Plenipotentiaries:

The President of the United States of America, Charles S. Francis, Envoy Extraordinary and Minister Plenipotentiary to His Majesty the King of the Hellenes.

His Majesty the King of the Hellenes, Alexander Th. Zhïmis, Commander of the Royal Order of the Saviour, etc., President of His Council, His Minister for Foreign Affairs.

Who, after having communicated to each other their respective full powers, found to be in good and due form, have agreed upon the following articles:

Article I.

Each of the high contracting parties agrees to receive from the other, consuls-general, consuls, vice-consuls and consular agents in all its ports, cities and places, except those where it may not be convenient to recognize such officers. This reservation, however, shall not apply to one of the high contracting parties without also applying to every other power.

Article II.

The consuls-general, consuls, vice-consuls and consular agents of the two high contracting parties shall enjoy reciprocally, in the states of the other, all the privileges, exemptions and immunities that are enjoyed by officers of the same rank and quality of the most favored nation. The said officers, before being admitted to the exercise of their functions and the enjoyment of the immunities thereto pertaining, shall present their commissions in the form established in their respective countries. The government of each of the two high contracting powers shall fournish them the necessary exequatur free of charge, and, on the exhibition of this instrument, they shall be permitted to enjoy the rights, privileges and immunities granted by this convention.

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*) Ratifiée.

Article III.

Consuls-General, consuls, vice-consuls and consular agents, citizens of the State by which they are appointed, shall be exempt from preliminary arrest, except in the case of offences which the local legislation qualifies as crimes and punishes as such; they shall be exempt from military billetings, from service in the regular army or navy, in the militia, or in the national guard; they shall likewise be exempt from all direct taxes, national state or municipal, unless such taxes become due on account of the possession of real estate, or for interest on capital invested in the country where the said officers exercise their functions. This exemption shall not, however, apply to consuls-general, consuls, vice-consuls or consular agents engaged in any profession, business or trade; but said officers shall in such case be subject to the payment of the same taxes as would be paid by any other foreigner under the like circumstances.

Article IV.

When a court of one of the two countries shall desire to receive the judicial declaration or deposition of a consul-general, consul, vice consul or consular agent, who is a citizen of the State which appointed him and who is engaged in no commercial business, it shall request him, in writing to appear before it; and in case of his inability to do so, it shall request him to give his testimony in writing, or shall visit his residence or office to obtain it orally.

It shall be the duty of such officers to comply with this request with as little delay as possible.

In all criminal cases the appearance in court of said consular officer shall be demanded with all possible regard to the consular dignity and to the duties of his office.

It shall be the duty of said consular officer to comply with this request, without any delay which can be avoided. Nothing in the foregoing part of this article, however, shall be construed to conflict with the provisions of the sixth article of the amendments to the Constitution of the United States, or with like provisions in the constitutions of the several States, whereby the right is secured to persons charged with crime, tho obtain witness in their favor, and to be confronted with the witnesses against them.

Article V.

Consuls-general, consuls, vice-consuls and consular agents may place over the outer door of their offices the arms of their nation, with this inscription: Consulate-General, or Consulate, or Vice-Consulate, or Consular Agency of the United States or of Greece.

They may also raise the flag of their country on their offices. They may in like manner, raise the flag of their country over the boat employed by them in the port for the exercise of their functions.

Article VI.

The consular offices shall at all times be inviolable. The local authorities shall not, under any pretext, invade them. In no case shall they examine or seize the papers there deposited. In no case shall those offices be used as places of asylum. When a consular officer is engaged in other business the papers relating to the consulate shall be kept separate.

Article VII.

In the event of the death, incapacity or absence of consuls-general, consuls, vice-consuls and consular agents their chancellors or secretaries, whose official character may have previously been made known to the Department of State at Washington or to the Ministry of Foreign Affairs in Greece, may temporarily exercise their functions, and while thus acting they shall enjoy all the rights, prerogatives and immunities granted to the incumbents.

Article VIII.

Consuls-general and consuls may, so far as the laws of their country allow, with the approbation of their respective governments, appoint vice-consuls and consular agents in the cities, ports and places within their consular jurisdiction.

These agents may be selected from among citizens of the United States or of Greece, or those of other countries. They shall be furnished with a regular commission, and shall enjoy the privileges stipulated for consular officers in this convention, subject to the exceptions specified in articles 3 and 4.

Article IX.

Consuls-general, consuls, vices-consuls and consular agents shall have the right to address the administrative and judicial authorities, whether in the United States of the Union, the States or the municipalities, or in Greece, of the State, throughout the whole extent of their consular jurisdiction, in order to complain of any infraction of the treaties and conventions, between the United States and Greece, and for the purpose of protecting the rights and interests of their countrymen. If the complaint should not be satisfactorily redressed, the consular officers aforesaid, in the absence of a diplomatic agent of their country, may apply directly to the government of the country where they exercise their functions.

Article X.

Consuls-general, consuls, vice-consuls and consular agents may take at their offices, at their private residence, at the residence of the parties, or on board ship the depositions of the captains and crews of vessels of their own country, of passengers on board of them, and of any other citizen of their nation. They may also receive at their offices conformably to the laws and regulations of their country, all contracts between the citizens of their country and the citizens or other inhabitants of the

country where they reside, and even all contracts between the latter, provided they relate to property situated, or to business to be transacted, in the territory of the nation to which the said consular officer may belong.

Such papers and official documents, whether in the original in copies or in translation, duly authenticated and legalized by the consuls-general, consuls, vice-consuls and consular agents, and sealed with their official seal, shall be received as legal documents in courts of justice throughout the United States and Greece.

Article XI.

In the case of the death of any citizen of the United States in Greece, or of a Greek subject in the United States, without having any known heirs or testamentary executors by him appointed, the competent local authorities shall give information of the circumstance to the consular officers of the nation to which the deceased belongs, in order that the necessary information may be immediately forwarded to the parties interested.

In all that relates to the administration and settlement of estates, the consular officers of the high contracting parties shall have the same rights and privileges as those accorded in the United States of America and Greece, respectively, to the consular officers of the most favored nation.

Article XII.

Consuls-general, consuls, vice-consuls and consular agents shall have exclusive charge of the internal order of the merchant vessels of their nation and shall alone take cognizance of differences which may arise either at sea or in port between the captains, officers and crews, without exception, particularity in reference to the adjustment of wages and the execution of contracts.

In case any discord should happen on board of vessels of either party, in the territory or waters of the other, neither the Federal, State or Municipal Authorities or Courts in the United States, nor any Court or Authority in Greece, shall on any pretext interfere except when the said disorders are of such a nature as to cauce or to be likely to cause a breach of the peace or serious trouble in the port or on shore; or when, in such trouble or breach of the peace, a person or persons shall be implicated, not forming a part of the crew.

In any other case, said Federal, State or Municipal Authorities or Courts in the United States, or Courts or Authorities in Greece, shall not interfere but shall render forcible aid to Consular officers, when they may ask it, to search, arrest and imprison all persons composing the crew, whom they may deem it necessary to confine. Those persons shall be arrested at the sole request of the consuls addressed in writing to either the Federal, State or Municipal Courts or Authorities in the United States, or to any Court or Authority in Greece, and supported by an official extract from the register of the ship or the list of the crew, and the prisonners

shall be held, during the whole time of their stay in the port, at the disposal of the consular officers. Their release shall be granted at the mere request of such officers made in writing. The expenses of the arrest and detention of those persons, shall be paid by the consular officers.

Article XIII.

The said consuls-general, consuls, vice-consuls and consular agents are authorized to require the assistance of the local authorities for the arrest, detention and imprisonment of the deserters from the ships of war and merchant vessels of their country; and for this purpose they shall apply to the competent tribunals, judges and officers and shall, in writing, demand said deserters, proving by the exhibition of the registers of the vessels, the rolls of the crews, or by other official documents, that such individuals formed part of the crews, and on this reclamation being thus substantiated the surrender shall not be refused. Such deserters, when arrested, shall be placed at the disposal of the said consuls-general, consuls, vice-consuls aud consular agents and may be confined in the public prisons at the request and cost of those who claim them, in order to be sent to the vessels to which they belonged, or to others of the same country. But if not sent back within the space of two months, reckoning from the day of their arrest, they shall be set at liberty, and shall not again be arrested for the same cause.

It is understood, however, that if the deserter should be found to have committed any crime or offence, his surrender may be delayed until the tribunal before which the case shall be depending shall have pronounced its sentence, and such sentence shall have been carried into effect.

Article XIV.

In the absence of an agreement to the contrary, between the owners, freighters and insurers, all damages suffered at sea, by the vessels of the two countries, whether they enter the respective ports voluntarily or are forced by stress of weather or other cause, over which the officers have no control, shall be settled by the consuls general, consuls, vice-consuls and consular agents of the country in which they respectively reside; in case, however, any citizen of the country in which the said officers reside, or subjects of a third power, should be interested in these damages and the parties cannot come to an amicable agreement, the competent local authorities shall decide.

Article XV.

All operations relative to salvage of United States vessels wrecked upon the coasts of Greece, and of Greek vessels upon the coasts of the United States, shall be directed by the respective consuls-general, consuls, and vice-consuls of the two countries, and until their arrival, by the respective consular agents, where consular agencies exist.

In place and ports where there is no such agency, the local authorities shall give immediate notice of the shipwreck to the consul of the district

in which the disaster has taken place, and until the arrival of the said consul they shall take all necessary measures for the protection of persons and the preservation of property.

The local authorities shall intervene only to preserve order, and to protect the interests of the salvors, if they do not belong to the crew of the wrecked vessel, and to secure the execution of the arrangements made for the entry and exportation of the merchandise saved. It is understood that such merchandise is not to be subjected to any customs house charges unless it be intended for consumption in the country in which the wreck took place.

Article XVI.

Consuls-general, consuls, vice-consuls and consular agents shall be at liberty to go, either in person or by proxy, on board vessels of their nation admitted to entry and to examine the officers and crews, to examine the ship's papers, to receive declarations concerning their voyage, their destination and incidents of the voyage; also to draw up manifeste and lists of freight, to facilate the entry and clearance of their vessels, and finally to accompany the said officers or crews before the judicial or administrative authorities of the country, to assist them as their interpreters or agents.

The judicial authorities and custom-house officials shall in no case proceed to the examination or search of merchant vessels without having given previous notice to the consular officers of the nation to which the said vessels belong, in order to enable the said consular officers to be present.

They shall also give due notice to the said consular officers, in order to enable them to be present at any depositions or statements to be made in courts of law or before local magistrates, by officers or persons belonging to the crew, thus to prevent errors or false interpretations which might impede the correct administration of justice. The notice to consuls, vice-consuls or consular agents shall name the hour fixed for such proceedings. Upon the non-appearance of the said officers or their representatives, the case may be proceeded with in their absence.

Article XVII.

The present convention shall remain in force for the space of ten years, counting from the day of the exchange of the ratifications, which shall be made in conformity with the respective constitutions of the two countries and exchanged at Athens as soon as possible.

In case neither party gives notice, twelve months before the expiration of the said period of ten years, of its intention not to renew this convention, it shall remain in force one year longer, and so on from year to year, until the expiration of a year from the day on which one of the parties shall have given such notice.

This convention abrogates articles 12, 13 and 14 of the treaty of Commerce and Navigation concluded between the United States of America

and Greece at London, December 10th, 22d 1837, the remaining articles of such treaty continuing in force.

In faith whereof, the respective plenipontentiaries have signed this convention in duplicate and have hereunto affixed their seals.

Done at Athens the 19th/2d day of November/December 1902.

(Seal) *Charles S. Francis.*
(Seal) *Alexandre Th. Zaimis.*

73.

GRANDE BRETAGNE, RUSSIE.

Correspondance concernant la révocation des mesures dans „The Indian Tariff Act (1894) Amendment Bill"; du 12 juin 1899 au 14 janvier 1903.

Parliamentary Papers. Presented to both Houses of Parliament by Command of His Majesty. February 1903.

M. Lessar to the Marquess of Salisbury. — (Received June 13.)

Londres, le 12 Juin 1899.

M. le Ministre,

Conformément à „The Indian Tariff Act (1894) Amendment Bill," publié dans „The Gazette of India, Extraordinary," du 21 mars 1899, les sucres de provenance Russe sont sujets, à leur importation aux Indes, à une surtaxe élevée dite compensatrice.

L'établissement, sans négociations préalables, de taxes différentielles ou compensatrices à l'égard de pays qui jouissent du traitement de la nation la plus favorisée, constitue une dérogation à cette clause des Traités existants, quand même ces pays accorderaient des primes à l'exportation de leurs produits.

Particulièrement, pour ce qui concerne les sucres Russes, le Gouvernement Impérial ne saurait considérer l'introduction de cette surtaxe que comme suite d'un malentendu, aucune prime pour exportation tant directe qu'indirecte n'existant en Russie, où seul l'accise perçue est restituée. Cette dernière étant un impôt sur la consommation nationale ne pourrait être équitablement prélevée sur des produits qui ne sont pas mis sur les marchés de l'intérieur.

En outre, je me permets d'ajouter que comme l'accise sur le sucre exporté est remboursée d'après le taux qui a servi de base à l'impôt, à raison de 1 r. 75 c. par poud, le raisonnement d'après lequel la Russie

serait placée dans la catégorie des Puissances ayant recours à des primes quelconques d'exportation, apparaît dénué de tout fondement.

Les efforts du Gouvernement Impérial, visant la protection de l'industrie sucrière, se bornent à des mesures ayant pour but uniquement de lui réserver le marché intérieur et assurer une stabilité de prix aussi indispensable au fabricant qu'au consommateur. Le Cabinet de Saint-Pétersbourg s'est fait un devoir à la Conférence de Bruxelles en 1898 de communiquer à ce sujet un aperçu du régime actuellement en vigueur en Russie, en y exposant les moyens employés, qui sont le Tarif Douanier et la réglementation de la production; mais ces derniers appartenant au domaine de législation intérieure, le Gouvernement Russe se considère à juste titre comme seul juge de leur opportunité. D'ailleurs, l'ensemble de ces mesures saurait d'autant moins être l'objet de discussions ou d'arrangements internationaux que leur influence sur le marché universel des sucres n'est que fort insignifiante.

A la Conférence de Bruxelles les Représentants de plusieurs Puissances ont émis l'opinion que le régime susmentionné présente un système de primes habilement déguisées. Je ne puis opposer à cette assertion qu'un extrait de la statisque de notre importation de sucre aux Indes, qui montre que sur un total de plus de 4,000,000 cwt. de sucre importé, la Russie ne paraît que pour 2 cwt., fait indéniable qui prouverait que notre „habileté à déguiser les primes“ aurait été vainement dépensée. Il prouve, en outre, que si nous nous voyons forcés d'exiger de grands sacrifices de la part du consommateur local à la seule fin de protéger cette branche importante de la production nationale, et parfois d'exporter à perte, le prix de vente est encore trop élevé pour permettre à notre industrie sucrière de concourir, aux Indes, avec des pays qui accordent réellement des primes de sortie.

Par conséquent, vu l'absence du système de primes en Russie, il paraît difficile de s'expliquer leur énumération avec subdivision en trois catégories distinctes et détails ad hoc dans le Tableau de „The Indian Tariff Act (1894) Amendment Bill.“ Les chiffres du Tableau n'offrent aucun champ de discussion, la base qui leur a servi de point de départ n'y étant guère donnée. Pourtant, dès à présent, on ne saurait passer sous silence le fait que les taxes compensatrices prélevés sur les sucres Russes importés aux Indes dépassent sensiblement celles sur les produits identiques de provenance Allemande et Autrichienne, malgré que notre importation en 1898 se soit bornée à 2 cwt., tandis que celle des deux derniers pays était de 2,000,000 cwt. Ce fait tendrait donc à corroborer la supposition que la nouvelle législation sucrière des Indes provient, à l'égard de la Russie, des suites d'un malentendu.

Le Gouvernement Impérial n'accordant pas de primes est tout aussi intéressé que celui de Sa Majesté Britannique à l'abolition de ces dernières par les autres pays. Cette abolition ou les mesures prises dans le but de contrebalancer l'effet des primes pourraient seules mettre la Russie en

état de participer dans les conditions normales à l'approvisionnement des marchés de l'Inde.

Le Cabinet Impérial, considérant que les principes d'équité et de justice ne sauraient, dans ces conditions, être invoqués en faveur de la voie poursuivie par le Gouvernement de la Péninsule, se plaît à espérer que votre Excellence voudra bien reconnaître la validité de son point de vue et m'a chargé, en conséquence, d'entrer en pourparlers avec elle en vue de la révocation, à l'égard de la Russie, des mesures contenues dans „The Indian Tariff Act (1894) Amendment Bill."

En me conformant aux instructions du Ministère Impérial et en recommandant ce qui précède à la bienveillante attention de votre Seigneurie, j'ai, &c.

(Signé) *P. Lessar.*

The Marquess of Salisbury to M. Lessar.

Foreign Office, July 15, 1898.

Sir,

Her Majesty's Government have given their most careful consideration to your note of the 12th ultimo on the subject of the countervailing duties imposed on sugar imported form Russia into India, in which you request that the new legislation may not be applied to Russian products, on the ground that the Russian Government does not grant bounties.

In reply, I have the honour to state that Her Majesty's Government, after careful consideration, have come to the conclusion that the system established in Russia creates an artificial stimulus to the production of sugar for the foreign market which has practically the same effect as a bounty of a more direct character, and they are fortified in this opinion by the fact that the legislation of the United States and te records of the recent Conference at Brussels prove that this view is shared by other Powers.

The great extension and development which has taken place in the system of bounties and other analagous expedients constitute a grave menace to British industry and enterprise. Her Majesty's Government are therefore not disposed to admit that any Government has the unrestricted right by such means to override the clear intention of the most-favoured-nation clause, which is, that goods shall enjoy equality of treatment, but not preferential advantages as compared with goods of the most favoured nation.

When an artificial preference of such a character is produced by the direct legislative act of a foreign Government which is a party to a most-favoured-nation stipulation, Her Majesty's Government consider that it should be open to the other Contracting Party, if such action should seem expedient, to redress the balance of trade which has thus been artificially disturbed. The remedy in such a case lies in the hands of the Government granting the bounty, or by its legislative act producing the artificial

stimulus, the discontinuance of which would cause the counteracting measures to be withdrawn.

Should the Russian Government unfortunately not be willing to accept this view, Her Majesty's Government are prepared in case of necessity to give notice of the termination of the Treaty of Commerce between the two countries, a step which they would, however, be very reluctaut to take, in view of the friendly commercial relations which now exist.

I have, &c.

(Signed) *Salisbury.*

M. de Staal to the Marquess of Lansdowne.—(Received July 9.)

Londres, le 8 Juillet, 1902.

M. le Marquis,

Me conformant au désir du Ministère Impérial des Affaires Étrangères, j'ai l'honneur de transmettre ci-près à votre Seigneurie une note élaborée par notre Ministère des Finances à la suite des décisions prises à la dernière Conférence de Bruxelles.

La note susmentionnée, ainsi que l'Annexe y jointe, exposent d'une manière parfaitement précise le point de vue du Gouvernement Impérial par rapport à l'industrie sucrière et contiennent des renseignements exacts sur le système de réglementation de la production du sucre en Russie.

J'ai, &c.

(Signé) *Staal.*

Inclosure.

Note.

Les Représentants accrédités par les Gouvernements de l'Allemagne, de l'Autriche-Hongrie, de la Belgique, de l'Espagne, de la France, de l'Angleterre, de l'Italie, de la Hollande, et de la Suède, après avoir étudié à la Conférence réunie à Bruxelles l'état international de l'industrie des sucres et désirant abolir les primes d'exportation accordées à l'industrie sucrière, ainsi que les droits d'entrée surélevés établis sur le sucre, ont conclu le 5 Mars, 1902, une Convention dont le texte a été communiqué au Gouvernement Russe. Le Gouvernement Impérial n'a pas pris part à la dite Conférence estimant que son but était étranger aux intérêts Russes, l'exportation du sucre à l'étranger n'étant pas protégée en Russie par des primes soit directes soit dissimulées. Le Gouvernement Russe ne règle que l'émission du sucre sur le marché intérieur ayant d'un côté pour but de lutter contre la surprodution du sucre et de l'autre d'amener une baisse progressive des prix de ce produit dans le pays et le développement de sa consommation.

La Convention conclue entre les Représentants des Puissances susnommées (communiquée par le Gouvernement Belge) porte que les Parties Contractantes s'engagent à frapper de droits spéciaux le sucre provenant des pays qui donneraient des primes à la production ou à l'exportation

du sucre (Article IV), et à appliquer un Tarif moins élevé au sucre originaire des pays ayant pris part à la Convention. Le Gouvernement Russe juge nécessaire, afin d'éviter toute complication avec les Puissances amies, d'exposer d'une manière parfaitement précise son point de vue sur le sujet avant que les dispositions de la Conférence susmentionnée n'entrent en vigueur.

La Russie a contracté avec toutes les Puissances qui ont pris part à la Conférence de Bruxelles des Traités de Commerce en vertu desquels les produits Russes ne peuvent être taxés ni autrement ni plus fortement que les produits des pays les plus favorisés. Ce principe de la nation la plus favorisée n'est soumis dans les Traités à aucune limite ni à aucune condition. Par suite le Gouvernement Russe devrait considérer comme une violation des Traités l'application d'un tarif plus élevé au sucre Russe, même si l'exportation du sucre était favorisée en Russie par des primes, ce qui, de fait, n'est pas le cas.

La mise à exécution des dispositions de la Conférence de Bruxelles se rapportant à la Russie serait une violation des Traités, même si ces derniers contenaient une clause pour le cas d'établissemont de primes d'exportation, car le Gouvernement Russe non seulement n'accorde pas de primes de ce genre, mais a au contraire supprimé un Syndicat privé qui forçait les producteurs de sucre à exporter leur produit à l'étranger et l'a remplacé par une régularisation de la production intérieure; cette mesure a pour but non pas la hausse des prix à l'intérieur du pays, ce que l'on observe souvent dans la pratique des Syndicats; mais tout au contraire le développement de la consommation intérieure du sucre au moyen d'une baisse progressive de ses prix. Si, par exemple, un Syndicat quelconque restreint le débit d'un produit à l'intérieur du pays en dirigeant ses excédents à l'étranger, et obtient de cette façon sur son propre marché une hausse artificielle des prix qui indemnise les producteurs de la vente à perte de leur produit à l'étranger, cette manière d'agir pourrait encore à un certain point de vue être interprétée comme un encouragement secret, non direct à l'exportation. Mais si un Syndicat parail est supprimé et si le Gouvernement s'occupe lui-même de mettre la production en rapport avec les besoins de la consommation, en réglant les prix du produit, en se bornant à prévenir des oscillations brusques de ces prix, et au rebours des Syndicats, en les acheminant vers une baisse progressive et non vers la hausse; il est évident que les pertes occasionnées par l'exportation à l'étranger, si elles se produisent, ne trouvent de compensation dans aucune source de revenu et que les producteurs sont par là même détournés de l'exportation à l'étranger et contraints à perfectionner leur production de manière à ce que les prix intérieurs du sucre—quoique tendant toujours à la baisse—les dédommagent entièrement par suite d'un développement de la consommation. L'exportation du sucre à l'étranger n'est dans ces conditions qu'une suite accidentelle des oscillations des récoltes et joue quant à sa quantité un rôle tout à fait insignifiant par rapport à la production totale. C'est précisément ce régime qui est établi

en Russie; il protège la consommation intérieure contre les hausses des prix et la production contre des baisses subites et considérables; en donnant une certaine fermeté au commerce intérieur il ne peut nuire ni directement ni indirectement aux intérêts des producteurs de sucre étrangers. Par conséquent le Gouvernement Russe ne saurait considérer comme lui étant applicables les dispositions de la Conférence de Bruxelles, qui se rapportent aux États accordant des primes à l'exportation du sucre.

Mais s'il était prouvé que même une intervention de ce genre du Gouvernement dans les conditions de l'industrie nuit aux intérêts du commerce international, que même une pareille protection des prix intérieurs trouble le libre cours de la concurrence internationale, le Gouvernement Russe prendrait volontiers part, d'accord avec les autres Puissances, à une discussion des mesures qui pourraient servir à paralyser les divers moyens d'influencer le marché international. Pourtant il ne serait disposé à une entente sur ce point que dans le cas où la question serait posée dans toute l'étendue de son contenu, c'est-à-dire si l'on mettait à l'étude non seulement les résultats des mesures directes Gouvernementales, telles que l'établissement de primes ou la régularisation de la production, mais aussi signification de différents Syndicats tolérés ou protégés par le Gouvernement, et si la Convention générale avait pour objet non seulement le sucre, mais aussi les autres produits d'importance pour le commerce international contemporain.

En se plaçant au point de vue qui vient d'être exposé, le Gouvernement Impérial espère que les Gouvernements étrangers ne refuseront pas d'y voir son parfait consentement à prendre part à toute action collective des Puissances qui aurait pour but de protéger contre des baisses artificielles les prix internationaux tant par rapport au sucre que relativement aux autres marchandises.

Annex.

Les mesures dont se sert le Gouvernement Russe afin de régler l'industrie des sucres ne tendent non seulement pas à encourager l'exportation du sucre à l'étranger par des primes directes ou dissimulées, mais tout au contraire, elles ont amené entre autres l'abolition des encouragements à l'exportation qui existaient avant la Loi du 20 Novembre 1895.

Le développement notable de l'industrie des sucres en Russie a commencé depuis 1885 et c'est justement alors que se firent remarquer des excédents de sucre relativement aux besoins du marché intérieur, ce qui amena naturellement à une baisse des prix du sucre à l'intérieur de la Russie, vu l'impossibilité de le vendre avantageusement à l'étranger. En vue de cela et conformément aux pétitions des producteurs de sucre, il fut établi par un Décret du Comité des Ministres, sanctionné par Sa Majesté Impériale le 12 Juillet 1885, que les exportateurs recevraient outre la restitution de l'accise une prime d'un rouble par poud pour les deux premiers millions de pouds exportés. Le 1er Novembre 1885, ces 2,000,000 de pouds étaient déjà exportés et vu que les prix du sucre baissaient

encore, le Décret du Comité des Ministres, sanctionné par Sa Majesté Impériale le 9 Novembre 1885, prolongea jusqu'au 1er Mai 1886, et ensuite jusqu'au 1er Juillet 1886, le payement des primes, mais seulement de 80 copecks, au lieu d'un rouble par poud. Le total des primes payées pour l'exportation du sucre monte à 2,134,453 roubles en 1885 et à 4,642,362 roubles en 1886.

En 1887 les producteurs de sucre (premièrement 171 sur 219 et ensuite 206 et 210) contractèrent une Convention privée qui les obligeait mutuellement à exporter à l'étranger une partie du sucre produit conformément à un règlement spécial et à des termes strictement convenus; les contraventions de la dite Convention étaient frappées d'une amende de 2 r. 50 c. par poud de sucre non exporté ou exporté inexactement. Cette Convention, pourtant, ne put prévenir la surproduction, vu que maintes usines de sucres, notamment les plus grandes qui furent organisées plus tard, restèrent en dehors du Syndicat; d'un autre côté les usines participant à la Convention ne tenaient pas toujours leurs engagements. C'est pour cela qu'en 1895, lorsque les prix du sucre baissèrent excessivement à l'étranger, principalement sous l'influence d'une exportation intense de l'Allemagne, de la France, et de l'Autriche-Hongrie, où l'on encourageait cette exportation par des primes, et lorsque notre industrie fut menacée d'une nouvelle crise, les producteurs de sucre s'adressèrent au Ministère des Finances et demandèrent que le Gouvernement leur vînt en aide soit en réglant l'industrie des sucres, soit en rendant obligatoire l'exportation des excédents de sucre à l'étranger.

Le Gouvernement mit beaucoup de prudence à entreprendre cette tâche. Préalablement à l'examen de la question au Conseil de l'Empire, il fut organisé par ordre de Sa Majesté Impériale une Commission Spéciale présidée premièrement par le Conseiller Privé actuel Bunge et ensuite, après sa mort, par le Secrétaire d'État Solsky. Cette Commission, aidée d'experts, devait examiner le côté théorique de la question et déterminer les bases principales d'une intervention Gouvernementale dans l'industrie sucrière; elle étudia les données sur le développement et l'état contemporain de cette industrie, de même que les données fournies par le Ministère des Finances et les producteurs de sucre. Le Ministère des Finances s'était déjà exprimé auparavant tout à fait catégoriquement sur la question des primes à accorder à l'exportation du sucre à l'étranger dans les termes suivants (Circulaire aux Comités de la Bourse à Kiew, Charkow, et Varsovie, en date du 19 Mars, 1886, No. 1918): „Le Ministère des Finances croit de son devoir de déclarer qu'il ne juge pas possible de solliciter pour l'exportation le payement de primes ni renforcées, ni non remboursables, et que les primes qui ont été et sont encore livrées ne doivent avoir pour but que de libérer le marché des excédents de sucre produit durant la campagne sucrière de 1885—86; après cela elles auront cessé d'exister. Outre les inconvénients reconnus pour inévitablement liés avec le payement de primes continuelles dans tous les cas où l'on tend à des buts exclusivement commerciaux et non pas à acquérir la prépondérance sur un marché étranger—les primes ne peuvent

plus être dorénavant d'aucune utilité, vu que les Puissances de l'Europe—l'Allemagne, la France, et l'Autriche—sont allées si loin en fait de primes que toute concurrence avec elles sur ce point est parfaitement impossible. Le Ministère des Finances protège la production intérieure afin de pourvoir aux besoins de la consommation indigène, et non pas dans le but de fournir du sucre à bas prix aux consommateurs étrangers au détriment des consommateurs Russes et du Trésor de l'Empire. C'est pourquoi le Ministère des Finances juge nécessaire de prévenir les producteurs de sucre que le produit de la future campagne sucrière ne peut plus espérer obtenir des primes pour son exportation aux marchés Européens." La Commission s'exprima de la même manière dans son journal en 1895: „La Commission ne trouve pas désirable de prendre des mesures quelles qu'elles soient ayant un caractère d'encouragement artificiel à l'exportation du sucre à l'étranger, car cette exportation artificielle s'effectuera ou bien aux frais de la Couronne—sous forme de primes—ou bien aux dépens des consommateurs du marché intérieur qui subira une hausse des prix; enfin, cette exportation ne ferait que soutenir la surproduction anormale du sucre qui a amené cette industrie à l'état précaire où elle se trouve actuellement."

Les idées exposées ci-dessus ont servi de base à la législation actuelle sur l'industrie des sucres. Le Gouvernement s'est chargé de régler la production intérieure du sucre en établissant par voie législative la normale quantité de sucre qui peut être admise annullement sur le marché intérieur. Cette quantité normale de sucre paye l'accise ordinaire de 1 r 75 c. par poud. Quant au sucre qui paraîtrait sur le marché intérieur en surplus de la quantité établie, il paye encore un impôt additionnel équivalent à l'accise ordinaire, ce qui fait en somme 3 r. 50 c. par poud. Répondant par ces mesures aux vœux des producteurs de sucre, le Gouvernement juge d'un autre côté indispensable de sauvegarder aussi les consommateurs contre une hausse excessive des prix; dans ce but il fixe pour chaque campagne sucrière le maximum des prix du sucre et sitôt que les prix du marché intérieur dépassent les normes fixées, le Ministre des Finances autorise une nouvelle livraison du sucre du dépôt obligatoire qui ne paye que l'accise ordinaire.

A son exportation à l'étranger le sucre est libéré de l'accise et de l'impôt additionnel, vu que l'accise est un impôt sur la consommation intérieure, et que s'il était prélevé sur le sucre exporté il formerait un impôt sur l'exportation. La quantité totale du sucre admis au marché intérieur est distribuée entre les usines conformément à leur force productive, mais vu que les usines se trouvent dans différents endroits et que l'exportation présente des avantages aux unes, tandis que pour les autres il est préférable de vendre le sucre au consommateur intérieur, elles ont le droit de répartir à nouveau entre elles la quantité de sucre admise sur le marché intérieur; il est naturel qui les fabriques que cèdent à d'autres leur droit d'émission du sucre sur le marché intérieur et qui exportent leur produit à l'étranger, reçoivent une certaine compensation

pour la suppression des bénéfices que présente la vente du produit sur le marché indigène. Grâce à la cession du droit d'émission, la quantité totale du sucre qui paraît sur le marché intérieur n'augmente pas, et il serait donc injuste de supposer que plus il y aurait de sucre exporté par une partie des fabriques à l'étranger, plus d'autres fabriques en pourraient jeter sur le marché intérieur en payant l'accise ordinaire de 1 r. 75 c. par poud. Le droit de cession n'encourage pas l'exportation du sucre à l'étranger et ne contribue pas à en faire jeter de grandes quantités sur le marché international; il ne facilite que la répartition de la production nationale entre les marchés extérieur et intérieur conformément aux conditions naturelles géographiques et économiques. Le payement des certificats d'exportation n'est pas une prime dissimulée à l'exportation, mais il représente uniquement l'un des bénéfices dont jouissent les usines sur le marché intérieur, grâce à ce que ce dernier est régularisé.

Si même le terme de prime pouvait être appliqué au payement de certaines sommes effectué non par le Gouvernement, mais par une fabrique à une autre fabrique, il ne serait pourtant possible de nommer prime à l'exportation que ce qui contribuerait au développement de cette dernière, mais la vente des certificats d'exportation ne contribue qu'à remplacer l'exportation d'une fabrique par celle d'une autre fabrique.

De cette façon, depuis l'intervention active du Gouvernement, le nouveau régime de l'industrie des sucres diffère essentiellement de l'ancien régime en ce que le Gouvernement règle à présent l'émission du sucre sur le marché intérieur.

Cette mesure limite la croissance excessive de l'industrie. Le Gouvernement a simultanément aboli toutes primes à l'exportation, de même que l'exportation forcée du sucre à l'étranger, il a forcé les producteurs—dans les intérêts des consommateurs—à amasser un stock immuable, ce qui empêche une partie des excédents de sucre d'être exportée à l'étranger; il tend enfin uniquement à la baisse progressive des prix du sucre dans le pays en augmentant graduellement la quantité de sucre autorisée à être émise sur le marché intérieur et en y réglant le maximum des prix fixés quelques mois avant le commencement de la nouvelle campagne sucrière, par conséquent, sans prendre en considération la quantité des excédents de sucre qui pourraient être exportés et les prix des marchés extérieurs. La base fondamentale de la réglementation de l'industrie des sucres est d'écarter la surpruduction, de contribuer à la baisse des prix du sucre, mais à une baisse progressive, sans oscillations subites qui désorganiseraient l'industrie; enfin, d'augmenter la consommation intérieure du sucre. Quant à l'exportation à l'étranger, non seulement elle n'est pas le but de la réglementation, non seulement elle ne s'en trouve pas favorisée, mais, au contraire, elle est placée actuellement dans des conditions beaucoup plus défavorables qu'auparavant. La Loi de 1895 admet même la perception de l'accise pour le sucre exporté, dans le cas où les prix du sucre sur les marchés étrangers s'élèveraient au point de favoriser le développement de la production du sucre en vue de l'exportation. (Remarque à l'Article IX.)

Un marché intérieur régularisé, mis à l'abri de la possibilité critique d'une offre trop abondante de marchandises, ouvre aux produits de notre industrie sucrière un débouché plus avantageux et plus lucratif que les marchés étrangers, où nous sommes exposés à la concurrence du sucre primé par les autres États. Depuis la promulgation de la Loi du 20 Novembre 1895, notre industrie sucrière a cherché à s'adapter aux exigences de la consommation intérieure, suivant les normes de cette Loi, et l'exportation n'a eu depuis qu'une signification accidentelle, en se présentant comme la seule issue possible d'un conflit entre les besoins divers et changeants de l'industrie et les exigences fermes et nettes de la réglementation. Non seulement cette issue n'a jamais été protégée par le Gouvernement, mais elle a été, au contraire, toujours désavantageuse pour les producteurs. Seule l'exportation du sucre en Asie et notamment en Perse est avantageuse à notre industrie sucrière, et cette exportation augmente d'une façon continue d'année en année.

Voici la moyenne de l'exportation annuelle en Asie:

	Pouds.
1886—1889	1,053,000
1890—1893	1,477,000
1894—1897	1,905,000
1898—1901	2,665,000

En 1886 l'exportation du sucre en Asie n'atteignait que 509,000 pouds et représentait la sixième partie de l'exportation en Europe (3,223,000 pouds); en 1901 elle a donné le chiffre de 2,926,000 pouds et a déjà surpassé l'exportation en Europe (2,874,000 pouds). L'exportation du sucre en Europe représente des quantités très variables; elle ne surpasse pas 1,100,000 pouds en 1893, elle monte jusqu'à 11,506,000 pouds en 1896, elle baisse jusqu'à 3,405,000 pouds en 1889 et elle monte jusqu'à 6,915,000 pouds en 1900, et elle retombe jusqu'à 2,874,000 pouds en 1901. Quant à la moyenne de l'exportation des quatre dernières années (1898—1901), elle représente 4,197,000 pouds chiffre presque équivalent à la moyenne de l'exportation des seize dernières années (1886—1901)—4,065,000 pouds. Tandis que durant ces seize années la quantité du sucre admise sur le marché intérieur est presque doublée et atteint à présent, au lieu de 20,000,000 pouds, 40,000,000, et tandis que l'exportation en Asie a augmenté de six fois—l'exportation en Europe reste à la même moyenne annuelle. L'exportation du sucre Russe en Europe ne représente pour la dernière année (1901) que 12 pour cent de notre production, tandis que l'Allemagne exporte 58 pour cent de la sienne; l'Autriche, 63 pour cent; la France 67 pour cent. Il est donc évident que l'industrie des sucres en Russie ne compte pour le placement de son produit que sur les marchés intérieur et Asiatique et qu'elle n'use des marchés Européens que pour le placement de ses excédents accidentels, placement essentiellement désavantageux qu'il est dans ses intérêts d'éviter autant que possible.

Exportation du Sucre en poudre, du Sucre raffiné, et du Sucre mélasse (en pouds) de Russie.

	En Europe	En Asie.
	Pouds.	Pouds.
1901	2,874,000	2,926,000
1900	6,915,000	3,052,000
1899	3,405,295	2,527,763
1898	3,594,971	2,157,655
1897	4,558,304	2,372,914
1896	11,506,556	1,941,770
1895	3,876,776	1,771,251
1894	3,697,854	1,533,914
1893	1,100,196	1,152,692
1892	1,583,733	1,359,774
1891	5,744,381	1,800,788
1890	1,640,975	1,596,512
1889	3,510,591	1,432,279
1888	4,229,438	1,280,001
1887	3,582,383	990,559
1886	3,223,116	509,337

The Marquess of Landsdowne to M. de Staal.

Foreign Office, July 30, 1902.

Your Exellency,

I have the honour to acknowledge the receipt ef your Excellency's note of the 8th instant, in which you were good enough to inclose a note prepared by the Imperial Ministry of Finance concerning the decisions arrived at by the recent Brussels Conference respecting sugar bounties.

The note explains the reasons why the Russian Government did not consider it necessary to be represented at that Conference, and whilst giving a detailed account of the system in force in Russia in regard to the sugar industry, proceeds to state that no bounties on the exportation of sugar are given in Russia, and that even were such bounties given, the most-favoured nation stipulation in existing Treaties would preclude the application to Russian sugar of the penal clause contained in Article IV of the International Convention concluded at Brussels on the 5th March last.

His Majesty's Government have given the most careful consideration to the representations thus made by your Excellency, and in reply, I would beg leave in the first place to recall to your Excellency's attention which existed in regard to the Russian sugar trade before the Brussels Conference was summoned.

In the year 1899, as your Excellency is aware, after the deliberations of the Sugar Conference of 1898, the Government of India imposed countervailing duties upon Russian sugar imported into India; and when

representations were made by M. Lessar against that action of the Indian Government, my predecessor replied on the 15th July, 1899, to the effect that the Russian system did, in the opinion of Her Majesty's Government, create an artificial stimulus on the production of sugar which had practically the same effect as a bounty of a more direct character, and that the imposition of countervailing duties in such a case was not inconsistent with the provisions of the most-favoured-nation clause.

The grounds uqon which Her Majesty's Government came to this conclusion are fully set forth in the note refered to, and no reply was received from the Russian Government contesting them.

The Indian countervailing duties continued thus in operation until the time when the invitations were given by the Belgian Government for the meeting of the recent Conference at Brussels.

His Majesty's Government greatly regret that the Russian Government did not see fit to be represented at that Conference, since, if Russian Delegates had been present, the position and interests of Russia in connection with the sugar question might have been more authoritatively put forward.

In the circumstances, however, it became necessary, without the participation of Russia, once more to enter upon an elaborate examination of the various systems of sugar bounties; and the International Convention which has already been brought to the attention of your Government was eventually concluded.

Amongst other things it was recognized in that Convention that a bounty could be created by a surtax, i.e., by a disproportion betwixt the customs and the excise exceeding a certain figure, viz., 6 fr. for refined, and 5 fr. 50 c. for raw sugar, per 100 kilog. In Russia the existing customs duty on sugar is believed to be 97 fr. 60 c. per 100 kilog., whilst the excise duty is 28 fr. per 100 kilog., the surtax being thus 69 fr, 60 c. per 100 kilog.

Under the provisions of the Convention of the 5th March, 1902, Article VII, His Majesty's Government have agreed to the constitution of an International Commission, whose duty it will be, amongst other things, to determine the existence of bounties in non-Signatory States and to assess their amount. His Majesty's Government still cherish the hope that, on reconsideration of the matter, the Russian Government may become a party to the International Convention, full liberty having been given for non-Signatory States to adhere to it. In the contrary case, should the Convention be ratified, and should the International Commission find that bounties result from the Russian system, His Majesty's Government would have no option but to apply the penal clause to Russian sugars, a course which, as previously stated, they would consider in nowise inconsistent with the stipulations of the Treaty of Commerce between Great Britain and Russia of the 12th January, 1859.

In regard to the suggestion contained in the penultimate paragraph of the Russian note inclosed by your Excellency, to the effect that the

whole question should now be reopened by a fresh inquiry, not only into the conditions of the sugar industry, but also into those of all other industries affected by bounties or by the operation of Syndicates tolerated or protected by the Government, I regret to say that His Majesty's Government could not, after all that has taken place, consent to participate in such an inquiry, which they do not consider would, at present, lead to any practical result.

I have, &c.
(Signed) *Lansdowne.*

Memorandum communicated by Baron Graevenitz, September 24, 1902.

Lorsqu'en 1899 une taxe supplémentaire fut imposée à l'importation du sucre Russe aux Indes Britanniques, le Gouvernement Impérial crut devoir protester contre cette mesure, en se basant sur le fait que l'exportation du sucre n'est favorisée en Russie par aucune prime et que, même dans le cas où de pareilles primes existeraient, le prélèvement sur le sucre Russe d'une taxe compensatoire devait être considéré comme une infraction au Traité conclu entre la Russie et la Grande-Betragne le 31 Décembre (12 Janvier), 1858—59. (Note du Chargé d'Affaires de Russie à Londres au Secrétaire d'État des Affaires Étrangères Britannique en date du 31 Mai (12 Juin), 1899.)

Les mêmes déclarations sont contenues dans la note du Gouvernement Impérial en date du 25 Juin (8 Juillet), 1902. Dans l'annexe à cette note il est, entre autres, clairement démontré que l'exportation du sucre n'est favorisée en Russie par aucune prime ni directe, ni indirecte.

En réponse à ces assertions le Gouvernement Britannique prétend que „le système adopté en Russie constitue un moyen artificiel pour encourager la production sucrière, moyen qui aboutit, en fait, aux mêmes résultats que les primes directes, et par conséquent, le prélèvement des droits compensatoires ne déroge pas au principe du traitement de la nation la plus favorisée.“ (Note du Secrétaire d'État des Affaires Étrangères en date du 17 (30) Juillet, 1902.) „Le but de la clause en question est de garantir aux marchandises une égalité de traitement, et non la faculté de jouir d'avantages supérieurs à ceux dont jouissent les marchandises de la nation la plus favorisée. L'augmentation de ces avantages peut être la conséquence immédiate de dispositions législatives, prises par une Puissance étrangère, qui est l'une des Parties Contractantes d'un accord basé sur la clause du traitement de la nation la plus favorisée. Dans ce cas, de l'avis du Gouvernement Britannique, si les dispositions législatives en question équivalent à l'établissement de primes d'exportation, l'autre Partie Contractante est en droit de prendre les mesures qu'elle jugera utiles en vue de rétablir l'équilibre commercial artificiellement détruit.“ (Note Anglaise du 3 (15) Juillet, 1899.)

Tout en affirmant encore une fois qu'en Russie il n'existe pas de primes d'exportation sur le sucre, le Gouvernement Impérial croit devoir

insister sur la considération, que même si de pareilles primes existaient, le prélèvement par le Gouvernement Britannique sur le sucre Russe de droits d'entrée plus élevés que sur les sucres d'autres provenances, constitue une infraction incontestable au Traité du 31 Décembre (12 Janvier), 1858—59. En effet, aux termes de l'Article II de ce Traité; „Il ne sera imposé d'autres ni de plus forts droits sur l'importation dans les États et possessions de Sa Majesté l'Empereur de toutes les Russies d'un article quelconque produit du sol ou de l'industrie des États et possessions de Sa Majesté Britannique, de quelque place qu'il arrive, et il ne sera imposé d'autres ni de plus forts droits sur l'importation dans les États et possessions de Sa Majesté Britannique d'un article quelconque produit du sol ou de l'industrie des États et possessions de Sa Majeté l'Empereur de toutes les Russies, de quelque place qu'il arrive, qui sont ou seront payés pour le même article produit du sol ou de l'industrie d'un autre pays étranger quelconque."

Cet Article ne laisse subsister aucun doute sur la portée du Traité en question, qui accorde aux Parties Contractantes, sans aucune restriction, le droit au traitement de la nation la plus favorisée, c'est-à-dire la jouissance complète des privilèges concédés à toute autre tierce Puissance. L'Article stipule, en effet, qu'aucun produit du sol ou de l'industrie Russes ne sera soumis dans les possessions Britanniques à des droits „autres ni plus forts" que ceux qui seront prélevés sur les produits du sol ou de l'industrie d'un autre pays étranger quelconque. Il résulte de ce qui précède qu'aucune marchandise de provenance Russe ne peut être imposée dans les possessions Britanniques d'une taxe supplémentaire quelconque qui ne soit pas prélevée également sur les marchandises de même genre et de même espèce provenant d'un tiers pays. Le Traité n'autorise aucune des Parties Contractantes de soumettre, pour quelque motif que ce soit, les produits du sol et de l'industrie de l'autre partie à un traitement plus désavantageux que celui auquel sont soumis les produits similaires de toute tierce Puissance. C'est pourquoi l'encouragement de l'exportation par des primes même s'il existait en fait, ne saurait servir de prétexte pour imposer des droits supplémentaires.

L'interprétation que le Gouvernement Britannique donne à la clause du traitement de la nation la plus favorisée est évidemment contestable. Car, partant de ce principe, on serait obligé d'admettre que les marchandises provenant d'un pays qui accorde à ses produits d'exportation des Tarifs de chemins de fer ou des frêts maritimes inférieurs à ceux des autres pays, soient imposés „en vue d'égaliser les conditions d'écoulement de ces marchandises sur les marchés de leur destination," de droits douaniers plus élevés que les droits prélevés sur des marchandises similaires d'une autre provenance. Il paraîtrait également justifiable de frapper de taxes compensatoires certaines marchandises, lorsque leurs producteurs ont moins d'impôts à payer dans un pays que dans l'autre, de même que si dans un des pays d'où ces marchandises s'exportent l'industrie se trouve dans des conditions naturelles particulièrement favorables, car l'inégalité des

impôts ou des conditions naturelles de la production influe sensiblement sur l'importance de l'exportation. De même faudrait-il „qu'en vue d'égaliser les conditions d'écoulement des marchandises sur les marchés de leur destination,“ les pays qui importent des articles frappés de droits de sortie accordent à ces articles des faveurs spéciales; ainsi, puisque l'Angleterre ne prélève pas des droits d'entrée, elle devrait, dans des cas semblables et conformément au principe susénoncé, primer les marchandises qui ont à acquitter dans leur pays d'origine de droits de sortie. Il est évident que ni les primes d'exportation, ni les droits de sortie ne donnent, en aucun cas, à la partie adverse le droit d'imposer des taxes supplémentaires, de même qu'ils ne peuvent l'obliger à accorder des primes d'aucune espèce. Chaque pays est libre soit de primer ses produits d'exportation, soit de les soumettre à des droits de sortie; ce ne sont là que des mesures qui, comme tant d'autres, permettent aux Gouvernements de faciliter l'écoulement des produits indigènes sur les marchés internationaux ou de les retenir dans l'intérieur du pays.

Le droit de la nation la plus favorisée, stipulé par le Traité en faveur des deux Parties Contractantes, ne limite ni l'une, ni l'autre relativement à leur liberté en ce qui concerne les mesures d'ordre intérieur qu'elles jugeront utile de prendre en vue du développement et de l'encouragement de l'industrie nationale. Tant que le Traité reste en vigueur, les marchandises de l'une des Parties Contractantes ne peuvent être soumises sur le territoire de l'autre partie au payement de droits d'entrée supérieurs aux droits prélevés sur des marchandises similaires d'une autre Puissance, quelles que soient les mesures intérieures prises dans le pays d'exportation. S'il en était autrement, le droit de la nation la plus favorisée serait un moyen d'ingérence dans la législation intérieure d'une Puissance étrangère.

Le Gouvernement Britannique, sans toucher aux considérations exposées dans l'annexe à la note du Gouvernement Impérial, en date du 25 juin (8 juillet), au sujet de la réglementation de la production sucrière en Russie, insiste sur le fait que la Convention de Bruxelles (à laquelle la Grande-Bretagne a adhéré) considère comme surtaxe l'écart entre le taux des droits de douane et celui des droits d'accise, et que la Convention fixe cette surtaxe à 6 fr. par 100 kilog. pour le sucre raffiné et à 5 fr. 50 c. par 100 kilog. pour le sucre brut, tandis qu'en Russie elle est de 69 fr. 60 c. (97 fr. 60 c.—28 fr.) par 100 kilog. de sucre. Il faut conclure de ce qui précède que la Grande-Bretagne, de même que les autres Puissances qui ont adhéré à la Convention ont l'intention de frapper le sucre Russe d'un droit supplémentaire sous prétexte que les droits de protection établis en Russie en faveur de la production nationale (69 fr. 60 c.) dépassent la limite du taux reconnu suffisant (5 fr. 50 c. à 6 fr.) par les Puissances Signataires pour la sauvegarde des intérêts légitimes de leur production. A ce propos il est à noter que la Russie n'est nullement obligée de se conformer à un accord séparé conclu par quelques Puissances qui ont préalablement déterminé non seulement les conditions

réciproques d'importation sur leurs territoires du sucre provenant des pays intéressés, mais aussi les limites dans lesquelles elles s'engagent à protéger leur propre production. La Russie ne peut, en effet, consentir à ce que, au mépris de ses Traités, on lui impose des stipulations que les Puissances participantes à la Conférence ont adoptées à leur guise et à l'élaboration desquelles la Russie n'a point participé. Il est également impossible d'admettre que l'accord en question puisse entraver, en quoique ce soit, la liberté d'action du Gouvernement Impérial par rapport aux mesures intérieures qu'il jugera nécessaire de prendre en vue du développement de l'industrie et du commerce sur le territoire Russe.

Si les mesures projetées contre les sucres primés ont pour but de protéger les pays d'importation contre la concurrence des sucres à bas prix, les stipulations relatives à la limitation de la surtaxe ont évidemment un autre but—celui d'ouvrir à l'importation des sucres étrangers tout pays où l'importation aurait dépassé la norme, donnant ainsi la faculté aux Puissances Signataires de la Convention de régler librement le taux des droits ou taxes au détriment des faveurs que ce pays considérait nécessaire d'accorder à l'industrie sucrière nationale.

De plus, le Gouvernement Britannique déclare dans sa note que si la Russie refuse d'adhérer à la Convention de Bruxelles, il ne reste à Angleterre d'autre issue que celle „d'appliquer au sucre Russe la clause pénale. Une pareille mesure ne peut aucunement être reconnue comme incompatible avec les dispositions du Traité de Commerce entre la Russie et la Grande-Bretagne du 12 janvier 1859.“ Ces termes permettent de conclure que le Gouvernement Britannique a l'intention d'appliquer la clause pénale à certaines Puissances parce que celles-ci n'ont pas adhéré à la Convention de Bruxelles, et qu'il considère que ce mode d'action ne dérogerait pas au droit du traitement de la nation la plus favorisée. Un tel procédé aurait en effet pour conséquence une certaine „égalité“ de traitement envers les Puissances, mais une „égalité“ en vertu de laquelle les Etats qui n'auront pas adhéré à la Convention subiraient au même degré une lésion égal de leur droit, consistant en une infraction directe aux Traités de Commerce. Il est évident que la clause de la nation la plus favorisée établit une „égalité“ d'un autre genre, et a pour but de prémunir les Parties Contractantes contre un traitement différentiel, aussi arbitraire, que celui dont il s'agit dans la Convention projetée.

On ne saurait trouver parmi les Traités internationaux l'exemple d'un accord semblable conclu par quelques Puissances à l'effet d'opposer à d'autres pays avec lesquels elles sont liées, sur la base de la nation la plus favorisée, un traitement qui ne répond qu'aux intérêts et désidérata des premières.

La Russie ne s'est pas fait représenter à la Conférence de Bruxelles, désirant conserver toute sa liberté d'action par rapport aux mesures d'ordre intérieur qu'elle juge nécessaire de prendre pour régulariser la production des sucres. En même temps le Gouvernement Impérial ne pouvait s'attendre à ce que les Gouvernements qui, par l'entremise de leurs Délégués, ont

discuté la question sucrière à un point de vue purement économique, en dehors de toutes considérations se rattachant à la clause du traitement de la nation la plus favorisée, s'arrêteraient à une décision dérogeant aux Traités en vigueur.

D'ailleurs, il n'y a pas longtemps encore, le Gouvernement Britannique lui-même envisageait les droits supplémentaires à un tout autre point de vue; en 1897 le Foreign Office déclarait, en effet, à la Commission de la Chambre des Communes, qu'il est impossible d'introduire des droits compensatoires sans enfreindre les Traités de Commerce.

En conséquence, de tout ce qui précède, le Gouvernement Impérial considèrera le prélèvement de droits compensatoires sur le sucre Russe, à son importation dans les possessions Britanniques, comme contraire au sens et à la lettre du Traité du 31 décembre (12 janvier), 1858—59. La Russie n'est pas considérablemeat intéressée à l'exportation du sucre dans les pays qui veulent appliquer la Convention de Bruxelles, car l'importation de ce produit dans les pays susindiqués est insignifiante et se trouve entravée dans sa croissance par la législation intérieure de la Russie. Cependant le Gouvernement Impérial considère toute infraction au sens précis des Traités de Commerce comme un précédent fort dangereux pour le développement normal des relations économiques entre Puissances amies. En se plaçant à ce point de vue, le Gouvernement Britannique admettrait lui-même qu'un pareil précédent, créé par la Convention de Bruxelles, peut amener à un état de choses qui, certainement, ne répondait pas aux vues des Puissances Signataires lors de leurs délibérations au sujet des primes sucrières.

C'est pourquoi, si le Gouvernement Britannique exprimait le désir de soumettre cette question à un arbitrage international ou au Tribunal Permanent de la Haye, le Gouvernement Impérial ne trouverait pas d'obstacles, le cas échéant, à s'associer à ce désir et serait d'avis que cette question fût discutée non seulement par rapport au sucre, mais en général par rapport à toutes autres espèces de marchandises. Un examen complet et approfondi de ces matières présente une importance d'autant plus grande que, dans le courant des quinze dernières années, des conjonctures économiques ont porté les Gouvernements de différents pays à s'écarter dans cette question du terrain strictement juridique et à émettre des opinions absolument contradictoires au sujet de la compatibilité des taxes supplémentaires avec le principe du traitement de la nation la plus favorisée.

The Mardues of Landsdowne to Baron Graevenitz.

Foreign Office, November 20, 1902.

Sir,

I Have the honour to state that His Majesty's Government have given their careful consideration to the Memorandum which you were good enough to communicate to me on the 24th September last, in reply to my note

to M. de Staal of the 30th July last, regarding the decisions of the Brussels Conference respecting sugar bounties.

In this Memorandum, it is maintained that the levying of higher import duties on Russian sugar than on that from other countries constitutes an indisputable infringement of Article II of the Treaty of Commerce of 1859; and that the encouragement of exportation by means of bounties, even if it existed, could not justify the imposition of additional duties. It is also contended that His Majesty's Government give to the most-favoured-nation clause an interpretation obviously open to question, because it would follow from that interpretation that goods arriving from a country which grants to its produce lower railway rates or reduced freights, or where natural conditions are more favourablethan those in other States, might be subjected to higher customs duties than those imposed on similar goods of different origin; and that goods which pay export duty would be entitled to an equivalent rebate on importation. The Memorandum proceeds to dispute the right of the Powers who signed the Brussels Convention to levy a duty on sugar from countries where the surtax exceeds 6 fr. per 100 kilog., and it also declares that Russia declines to be bound by a Convention to which she is not a party, or to be subjected to a penalty, in respect of her sugar, because she has not adhered to that arrangement. In conclusion, the Memorandum states that the Russian Government are ready, if His Majesty's Government, wish, to submit the matter to arbitration, and are of opinion that the question of the interpretation of the most-favoured-nation clause should be discussed in relation not only to sugar, but to other descriptions of goods.

In reply to the arguments advanced in the Memorandum, it is necessary first to point out that there is no intention of placing Russian sugar in the British market in a less favourable position than other sugars, for if the exportation of such sugars be stimulated by the legislative action of the countries whence they are derived, they also would receive treatment corresponding to that accorded to the Russian product, which could equally escape such treatment on the withdrawal of the encouragement it now enjoys. The matter is, therefore, in the hands rather of the Russian than of the British Government.

As regards the action which might be taken in response to such forms of encouragement as the reduction of railway rates, &c, it will be the duty of the International Commission, to be established under the Brussels Convention, to decide whether the internal measures adopted by any particular State are or are not in effect equivalent to bounties. There would, however, be no justification for claiming from importing States a rebate of duty, or a bonus if no duty existed, in the case of sugar subject to an export duty in its country of origin, for the remedy in this instance also would obviously lie in the hands of the exporting State. It is precisely the fact that it is within the power of the Legislature in Russia to abolish the conditions which form the basis of the Russian system, i.e., the high surtax and restriction of the amount of produce admitted to the home

market, that deprives the Russian Government, notwithstanding the existence of a most-favoured-nation clause, of any ground of complaint against the action of any other Government in endeavouring to free its own home market from the intrusion of goods sold in that market at less than cost price.

As to the right of the Powers who were represented at the Brussels Conference to arrange among themselves what shall or shall not be held to constitute bounties, His Majesty's Government must once again remind the Russian Government that it is through no fault of His Majety's Government that Russia did not participate in the deliberations which led to the signature of the Convention. His Majesty's Government have, notwithstanding the injury caused to British trade, for many years been seeking a solution of the question in which all other interested States might agree to join. The method devised by the Brussels Conference seems to them the most equitable which can be arrived at, and they believe that in its operation no injustice will be done either to Russian or to any other sugar. It should, however, be observed that the passage in the Memorandum which attributes to my note of the 30th July last the statement that, if Russia refused to adhere to the Convention, His Majesty's Government would have no option but to apply the penal clause to Russian sugar, is inexact. It would only be in the case of the International Commission finding that bounties did result from the Russian system that the consequence indicated would follow.

His Majesty's Government note that the Russian Government, while mentioning arbitration, do not make any definite proposal in that direction, and the suggestion is put forward that the question should be considered in relation to all other kinds of goods. His Majesty's Government regret that they cannot agree that the case, even if restricted to the matter immediately at issue, is one proper to be submitted to the judgment of an Arbitral Tribunal. The course which they have at last taken after a long and patient delay has been dictated solely by a desire to secure equality of conditions for those engaged in the production and refining of sugar within the limits over which they have control. Other States do not hesitate to impose high and prohibitive Tariffs for the protection of their trade in their own markets, and His Majesty's Government fail to see with what reason the Russian Government can complain of a measure not of favour, but of simple and elementary justice to British trade.

They also feel that they are released from the obligation of engaging in any further controversy on the subject by the offer which was contained in my predecessor's note to M. Lessar of the 15th July, 1899, to denounce the Treaty of Commerce of 1859, an offer which they are willing to renew.

In the ante-penultimate paragraph of the Russian Memorandum, a declaration is said to have been made on behalf of the Foreign Office to a Committee of the House of Commons in 1897, that it was impossible to introduce countervailing duties without infringing the Treaties of Com-

merce. If allusion is made to the proceedings of the West India Royal Commission in that year, an examination of these proceedings discloses no such declaration by any official belonging to this Department, and, in fact, affords evidence to the contrary.

I have, &c.
(Signed) *Lansdowne.*

Note Verbale communicated by Baron Graevenitz, January 14, 1903.

Le Gouvernement Impérial, ayant soumis à un examen approfondi la note du Principal Secrétaire d'État Britannique pour les Affaires Étrangères en date du 7 (20) Novembre, 1902, relative à la question des sucres, n'a pas trouvé les considérations y énoncées suffisantes pour pouvoir reconnaître le bien-fondé de point du vue auquel se place le Gouvernement Britannique dans cette affaire.

Le Gouvernement Impérial, en se basant sur les arguments exposés dans ses deux premières notes et jusqu'ici non réfutés, déclare ne pouvoir se départir de son opinion première, à savoir: que le prélèvement, pour quelque motif que ce soit, de taxes supplémentaires doit être considéré comme une violation du droit de la nation la plus favorisée tel qu'il est reconnu par les Traités de Commerce. Aussi, le Gouvernement Impérial ne peut-il laisser sans réponse la dernière note du Gouvernement Britannique.

Il est dit, dans cette note, que „le Gouvernement du Roi n'a pas l'intention de placer le sucre Russe dans des conditions moins favorables sur le marché Anglais que les sucres des autres pays puisque, si l'exportation de ces sucres était favorisée par la législation de leur pays d'origine, ils seraient soumis au même traitement que le produit Russe, et ce dernier échapperait à ce traitement dès que la protection dont il jouit actuellement lui serait retirée." En d'autres termes, le Gouvernement Britannique estime qu'un État qui aurait signé avec d'autres États une Convention séparée, serait autorisé d'exiger d'un État non-Signataire mais jouissant chez lui du traitement de la nation la plus favorisée que cet État renonce, sous la menace de mesures pénales, à la plénitude de son droit de favoriser, par n'importe quelles mesures intérieures, son industrie nationale. Il est difficile de ne pas reconnaître qu'un semblable procédé équivaudrait à l'immixtion d'un pays dans la législation intérieure d'un autre. Aussi, le Gouvernement Impérial se voit-il dans l'impossibilité d'accepter ce point de vue.

„Le fait même," continue la note Anglaise, „qu'il dépend du Pouvoir Législatif en Russie de modifier les conditions qui forment la base du système Russe, c'est-à-dire le droit élevé d'accise et la restriction de la quantité du produit admise sur le marché intérieur, enlève au Gouvernement Russe, malgré l'existence de la clause de la nation la plus favorisée, tout droit de se plaindre des procédés d'un Gouvernement qui s'efforce d'empêcher que son marché intérieur soit inondé de produits vendus au-dessous du prix de revient."

Il est incontestable que le Gouvernement Russe, s'il le juge utile, peut abolir le système actuellement en vigueur en supprimant le droit élevé d'accise et la limitation de la quantité du sucre destiné au marché intérieur. En effet, il dépend de lui de frapper, à son gré et dans n'importe quelle proportion, les produits de l'industrie nationale d'un droit d'accise, et de prendre des mesures en vue de favoriser ou de limiter la production. Mais il est de même évident qu'un pays étranger n'a aucune raison de s'attendre à ce que la Russie modifie sa législation intérieure en faveur de ce pays, et qu'elle lui reconnaisse, sans protester, le droit d'appliquer, en violation de la clause de la nation la plus favorisée, des mesures pénales aux produits Russes.

Dans le cas même où la Russie aurait pris part à la Conférence de Bruxelles elle n'aurait jamais donné son assentiment à des dispositions qui constituent une violation flagrante des Traités de Commerce. Par conséquent, la présence d'un Représentant du Gouvernement Impérial aux séances de la Conférence n'aurait modifié en rien l'état de choses, et l'observation de la note Anglaise que „ce n'est pas par la faute du Gouvernement Britannique que la Russie n'a pas pris part aux débats qui ont abouti à la signature de la Convention“ perd toute sa valeur.

Il est dit plus loin dans la note que „le Gouvernement Britannique, malgré les pertes causées au commerce Anglais, s'est, pendant de longues années, efforcé de trouver une solution, à laquelle toutes les autres Puissances intéressées eussent pu se rallier.“ Mais comme toutes les Puissances intéressées n'ont pas signé la Convention et que la Russie n'y donnera jamais son adhésion, il est difficile de reconnaître que l'ordre de choses établi par la Conférence de Bruxelles soit aussi „équitable“ que possible, et que „sa mise en pratique ne comportera pas d'injustice ni envers le sucre Russe, ni envers celui des autres pays.“

L'opinion du Gouvernement Britannique au sujet de la compatibilité des taxes supplémentaires avec le principe de la plus favorisée n'a pas été toujours la même. Ainsi, en 1888, lors de la signature du projet de Convention, le Gouvernement Impérial, ainsi que plusieurs autres États, firent des réserves au sujet de l'Article VII de la Convention, en indiquant la contradiction qu'il y avait entre la clause pénale contenue dans cet Article et les Traités basés sur le principe de la nation la plus favorisée.

L'Ambassadeur de Russie à Londres, invité à s'entendre avec le Gouvernement Britannique au sujet de la valeur réelle de la clause pénale, eut, à ce propos, un entretien avec Mr. Kennedy, Délégué du Foreign Office à la Conférence. Ce fonctionnaire déclara alors catégoriquement que la clause pénale visait indifféremment les Puissances Signataires ou non-Signataires de la Convention et que, par conséquent, les premières seraient tenues de conformer leurs Traités de Commerce aux dispositions de cette Convention, autrement dit: que les Traités de Commerce basés sur le principe de la nation la plus favorisée devraient être dénoncés. Mr. Kennedy ajouta que les principaux Traités de Commerce prenant fin

en 1892 il n'y aurait pas de grands inconvénients à mettre à exécution la Convention des Sucres, qui ne devait entrer en vigueur qu'à partir du 1er Septembre, 1891.

Il est donc évident que le Gouvernement Britannique lui-même considérait, à cette époque, l'Article VII de la Convention de 1888 comme incompatible avec les dispositions des Traités de Commerce basés sur le principe de la nation la plus favorisée. Or, c'est là précisément le point de vue qui sert de base aux deux notes du Gouvernement Russe, et contre lequel le Gouvernement Britannique soulève actuellement des objections.

La divergence profonde de vues qui se dégage de la correspondance échangée jusqu'à ce jour entre les deux Gouvernements écarte, semble-t-il, toute possibilité de compromis, d'autant plus que le Gouvernement Britannique a décliné l'offre qui lui a été faite par le Gouvernement Impérial de soumettre cette affaire à un arbitrage.

Le Gouvernement Britannique ayant déclaré, enfin, „que la clause pénale ne serait appliquée au sucre Russe que dans le cas où la Commission Internationale reconnaîtrait l'existence en Russie de primes sur ce produit," la question dont il s'agit doit être, par conséquent, considérée, pour le moment, ouverte, et tout échange de vues ultérieur devrait être suspendu jusqu'à la décision de la Commission susindiquée.

74.

LUXEMBOURG, BELGIQUE.

Convention en vue d'assurer aux ressortissants respectifs la réparation des dommages résultant des accidents du travail; faite à Bruxelles, le 15 avril 1905.*)

Memorial du Grand-Duché de Luxembourg. Nr. 65 1905.

Son Altesse Royale le Grand-Duc de Luxembourg et Sa Majesté le Roi des Belges, également animés du désir d'assurer aux ressortissants de Leurs États respectifs le bénéfice réciproque de la législation en vigueur sur la réparation des dommages résultant des accidents du travail, ont résolu de conclure à cet effet une convention et ont nommé pour Leurs Plénipotentiaires, savoir;

Son Altesse Royale le Grand-Duc de Luxembourg, M. le Comte de Marchant d'Ansembourg, Chambellan de S. A. R. le Grand-Duc de Luxembourg et de S. M. la Reine des Pays-Bas, Commandeur de première

*) L'échange des ratifications a eu lieu à Bruxelles le 25 octobre 1905.

classe avec plaque de l'ordre d'Adolphe de Nassau, Officier de l'Ordre de la Couronne de Chêne, Commandeur de l'Ordre de Léopold, etc., etc., Son Chargé d'affaires près Sa Majesté le Roi des Belges, et

Sa Majesté le Roi des Belges, M. le Baron de Favereau, Membre du Sénat, Chevalier de l'Ordre de Léopold, Chevalier de l'Ordre de la Couronne de Chêne, etc., etc., Son Ministre des Affaires Étrangères;

lesquels, après s'être communiqué leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus des articles suivants:

Art. 1er. Les ouvriers luxembourgeois victimes d'accidents du travail en Belgique, ainsi que leurs ayants-droit, seront admis au bénéfice des mêmes indemnités et des mêmes garanties que les sujets belges. Par réciprocité, les ouvriers belges victimes d'accidents du travail dans le Grand-Duché de Luxembourg, ainsi que leurs ayants-droit, seront admis au bénéfice des mêmes indemnités et des mêmes garanties que les sujets luxembourgeois.

Art. 2. Il sera cependant fait exception à la règle précédente lorsqu'il s'agira d'ouvriers, sans distinction de nationalité, qui sont occupés passagèrement, c'est-à-dire pendant six mois au plus, sur le territoire de celui des deux États contractants où l'accident est survenu, mais qui sont attachés à une entreprise située sur le territoire de l'autre Etat, auquel cas la législation de ce dernier État sera seule applicable.

Art. 3. Les dispositions de l'art. 48, n° 2, et de l'art. 49, alinéa 4, de la loi luxembourgeoise du 5 avril 1902 sont suspendues expressément au profit des ayants-droit de nationalité belge.

Art. 4. Les dispositions des art. 1, 2 et 3 de la présente Convention seront semblablement applicables aux personnes que les lois de chacun des États contractants assimilent aux ouvriers en ce qui concerne la réparation des dommages résultant des accidents du travail.

Art 5. Les exemptions prononcées en matière de timbre, de greffe et d'enregistrement, et la délivrance gratuite stipulée par la législation luxembourgeoise sur les accidents du travail, sont étendues aux actes, certificats et documents visés par cette législation qui seront passés ou délivrés aux fins d'exécution de la loi belge. Réciproquement les exemptions prononcées et la délivrance gratuite stipulée par la législation belge sont étendues aux actes, certificats et documents visés par cette législation et qui seront passés ou délivrés aux fins d'exécution de la loi luxembourgeoise.

Art. 6. Les autorités luxembourgeoises et belges se prêteront mutuellement leurs bons offices en vue de faciliter de part et d'autre l'exécution des lois relatives aux accidents du travail.

Art. 7. La présente Convention sera ratifiée et les ratifications seront échangées à Bruxelles le plus tôt possible.

Elle entrera en vigueur dix jours après la publication dans les formes prescrites par la législation des deux pays, et demeurera obligatoire jusqu'à

l'expiration d'une année à partir du jour où l'une ou l'autre des Parties contractantes l'aura dénoncée.

En foi de quoi les Plénipotentiaires ont signé la présente Convention et y ont apposé leurs cachets.

Fait en double à Bruxelles, le 15 avril 1905.

(L. S.) Le Comte *d'Ansembourg.*
(L. S.) *Favereau.*

75.

GRANDE-BRETAGNE, BELGIQUE, ALLEMAGNE.

Correspondance concernant les relations commerciales entre la Grande-Bretagne et les Colonies anglaises, du 9 mai 1897 au 8 juillet 1903.

Parliamentary Papers. Presented to both Houses of Parliament by Command of His Majesty. July 1903.

Sir F. Plunkett to the Marquess of Salisbury. — (Received May 10.)

Brussels, May 9, 1897.

My Lord,

M. de Favereau spoke to me yesterday of the complaint which has been made by the Belgian Consul-General in Canada against the exclusion of Belgium from certain Tariff advantages which the Canadian Government wish to extend only to Great Britain.

His Excellency said that the action of the Canadian Government was in direct contradiction with the rights secured to Belgium by Article XV of the Treaty of Commerce and Navigation of 23rd July, 1862.

I said that I had no authority to discuss the matter. The Belgian Minister in London was the proper channel for making the views of the Belgian Government known to Her Majesty's Government.

His Excellency said he was only waiting for the written Report of their Consul-General to send instructions to Baron Whettnall to lay the matter before your Lordship. As yet the Belgian Foreign Department had only telegraphic information of what had happened.

I have, &c.
(Signed) *F. R. Plunkett.*

The Marquess of Salisbury to Viscount Gough.

Foreign Office, May 10, 1897.

My Lord,

The German Ambassador called to-day and spoke to me of the Canadian proposal to discriminate in their new Tariff in favour of imports from the United Kingdom.

I replied that the matter had not yet been sufficiently considered by Her Majesty's Government for me to be able to inform him of the course they would be likely to take.

For a clearer designation, however, of the nature of the objections which the German Government entertained to this project, I said that I should be much obliged if his Excellency would embody these views in a pro-memoriâ.

I am, &c.

(Signed) *Salisbury.*

Sir F. Lascelles to the Marquess of Salisbury. — (Received May 17.)

Berlin, May 14, 1897.

My Lord,

In the course of conversation this afternoon Baron von Marschall informed me that he had telegraphed to Count Hatzfeldt to make a representation to your Lordship on the subject of the resolutions recently submitted of the Canadian Legislature to grant preferential treatment to the products of the United Kingdom. His Excellency said that Article VII of the Treaty of Commerce, which he read to me, was so explicit that he did not understand how any question could arise as to the right of Germany to claim any preferential treatment which might be accorded to Great Britain.

Baron von Marschall said that his reason for mentioning this subject to me was that he was convinced that the desire for the maintenance of good relations between the two countries which your Lordship had instructed me to express on my return to Berlin included commercial as well as political relations, and he would be grateful to me if I would draw your Lordship's attention to the great importance which te German Government attached to the question.

I replied that I would, of course, comply with his Excellency's request, and that as far as I understood the matter, the Canadian Government were anxious that the conditions of the Treaty, which had been applied to them without their consent, should be abrogated. In our more recent Commercial Treaties it had been usual to insert a clause that the self governing Colonies should come under their operation only if they expressed the desire to do so.

Baron von Marschall said that the Treaty of 1865 had been concluded with Her Majesty's Government, and it was to them that Germany must look for its due execution, and, moreover, Her Majesty's Government had the right of overruling Canadian legislation.

To this I replied that it could not be doubted that the Treaty would be scrupulously observed as long as it existed, but that it was in the power of either of the Contracting Parties to denounce it by giving a year's notice, and I understood from the newspapers that the Canadian Government were anxious that this should be done.

His Excellency observed that it was easier to denounce a Treaty than to conclude a new one, to which I fully agreed, more especially in

the case of Great Britain, who, in consequence of the Free Trade system, had few concessions to offer. In conclusion, Baron von Marschall repeated that he had merely mentioned the subject to me in order to impress upon me the importance which the German Government attributed to the action of the Canadian Legislature.

I have, &c.
(Signed) *Frank C. Lascelles.*

Count Hatzfeldt to the Marquess of Salisbury.
(Received May 17.)

(Tranlation.) German Embassy, London, May 14, 1897.

My Lord,

It has come to the knowledge of the Imperial Government that the Canadian Government have decided that from the 25th of last month German goods were to be treated differentially as against British goods on entering Canadian territory, a deduction of duty of one-eighth being granted in the case of British goods, while this advantage is denied to importers of German goods.

I have the honour to inform your Excellency, in accordance with instructions received, that, in the opinion of the Imperial Government, there can be no doubt that this measure is a contravention of the clear terms of Article VII of the Treaty between the Zollverein and Great Britain of the 30th May, 1865, by which we are expressly granted in the British Colonies a footing of equality for our products with those of the mother country.

Under these circumstances I have to request your Excellency, in the name of my Government, to be so good as to cause steps to be taken by Her Majesty's Government to put an end to the violation of the Treaty involved in the action of the Canadian Government.

Trusting that your Excellency will inform me of the decision taken by Her Majesty's Government in the matter, I have, &c.

(Signed) *P. Hatzfeldt.*

The Marquess of Salisbury to Count Hatzfeldt.

Foreign Office, May 20, 1897.

Your Excellency,

I have the honour to acknowledge the receipt of your note of the 14th instant, calling my attention to the action of the Dominion Government in discriminating in favour of British imports in their new Tariff arrangements, and pointing out that such action is in contravention of the Treaty engagements of Great Britain with the Zollverein.

Your Excellency's representation shall receive my immediate and most careful consideration.

I have, &c.
(Signed) *Salisbury.*

The Marquess of Salisbury to Sir F. Plunkett.

Foreign Office, May 25, 1897.

Sir.

With reference to your despatch of the 9th instant, I have to inform you that the Belgian Minister called to day and spoke to Sir T. Sanderson on the subject of the Canadian Tariff proposals.

He said that the Belgian Government wished to remind Her Majesty's Government that the Bill now before the Dominion Parliament, by which British imports would enter Canada on more favourable terms than Belgian goods, would constitute an infraction of Article XV of the Treaty between Great Britain and Belgium of the 23rd July, 1862.

Sir T. Sanderson replied that the Bill was not yet law, and that the question of its effect on the Treaty stipulations of Her Majesty's Government was being carefully considered.

I am, &c.

(Signed) *Salisbury.*

The Marquess of Salisbury to Count Hatzfeldt.

Foreign Office, June 4, 1897.

Your Excellency,

In further reply to your Excellency's note of the 14th ultimo respecting the new Canadian Tariff arrangement, I have the honour to inform you that Her Majesty's Government are in communication with the Dominion Government on the subject, and pending the receipt of further information which has been called for, and is shortly expected, I am not in a position to give a definite answer to the complaint of the German Government.

I have, &c.

(Signed) *Salisbury.*

The Marquess of Salisbury to Sir F. Plunkett.

Foreign Office, July 28, 1897.

Sir,

I have to request that you will at once give notice of the intention of Her Majesty's Government to terminate the Treaty of Commerce and Navigation between Great Britain and Belgium, signed on the 23rd July, 1862.

In virtue of the stipulations contained in Article XXV, the Treaty will accordingly terminate upon the expiration of a year, dating from the day upon which you give the notice.

I am, &c.

(Signed) *Salisbury.*

The Marquess of Salisbury to Sir F. Plunkett.

Foreign Office, July, 28, 1897.

Sir,

With reference to my preceding despatch, I have to request you to address a note to the Belgian Government informing them, in the sense of the present despatch, of the reasons which have decided Her Majesty's Government to give notice of termination of the Treaty of Commerce and Navigation of the 22nd July, 1862.

The general stipulations of the Treaty in question, being based on the principle of most-favoured-nation treatment, are in accordance with the present views of Her Majesty's Government, but Article XV is in the following terms: —

„Article XV. Articles the produce or manufacture of Belgium shall not be subject in the British Colonies to other or higher duties than those which are or may be imposed upon similar articles of British origin."

A stipulation to such effect is entirely unusual in Commercial Treaties. No record exists in the archives of this Department of the circumstances under which this Article was adopted, or of the reasons which induced Her Majesty's Government at the time to enter into an engagement of such a nature, and it would appear probable that the insertion of these words must have been due to oversight or to a want of adequate consideration of the exact consequences which would flow from them.

The Belgian Government are aware that for many years past the British selfgoverning Colonies have enjoyed complete Tariff autonomy, and that in all recent Commercial Treaties concluded by Great Britain it has been customary to insert an Article empowering the self-governing Colonies to adhere, or not, at will. No such Article is contained in the Anglo-Belgian Treaty of 1862, and the consequence is that certain of the British Colonies, which are all comprised within its operation, find themselves committed by Treaty to a commercial policy which is not in accordance with the views of the responsible Colonial Ministers, nor adequate to the requirements of the people.

Beyond this, the provisions of Article XV of the Treaty of 1862, quoted above, constitute a barrier against the internal fiscal arrangements of the British Empire, which is inconsistent with the close ties of commercial intercourse which subsist, and should be consolidated, between the mother country and the Colonies.

Under these circumstances, His Majesty's Government find themselves compelled to terminate a Treaty which is no longer compatible with the general interests of the British Empire. They are, however, auxious at once to commence negotiations for the conclusion of a new Treaty, from which the stipulations of Article XV shall be excluded, and which, whilst containing a clause providing for the facultative adhesion of the British self-governing Colonies, shall in other respects be similar to the Treaty now denounced.

Her Majesty's Government feel confident that the Belgian Government will share their wish for the speedy conclusion of a new and mutually satisfactory Treaty, in the negotiations of which Her Majesty's Government will be happy to consider any suggestions for improved stipulations which may be suggested by the experience gained during the thirty-five years' continuance of the Treaty of 1862.

I am, &c.
(Signed) *Salisbury.*

The Marquess of Salisbury to Sir F. Lascelles.

Foreign Office, July 28, 1897.

Sir.

I have to request that your Excellency will at once give notice of the intention of Her Majesty's Government to terminate the Treaty of Commerce between Great Britain and the Zollverein, signed on the 30th May, 1865.

In virtue of the stipulations contained in Article VIII, the Treaty will accordingly terminate upon the expiration of a year dating from the day upon which you give the notice.

I am, &c.
(Signed) *Salisbury.*

The Marquess of Salisbury to Sir F. Lascelles.

Foreign Office, July 28, 1897.

Sir,

With reference to my preceding despatch, I have to request you to address a note to the German Government informing them, in the sense of the present desparch, of the reasons which have decided Her Majesty's Government to give notice of termination of the Treaty of Commerce of the 30th May, 1865.

The general stipulations of the Treaty in question, being based on the principle of most-favoured-nation treatment, are in accordance with the present views of Her Majesty's Government, but Article VII is in the following terms:

„Article VII. The stipulations of the preceding Articles shall also be applied to the Colonies and foreign possessions of Her Britannic Majesty.

„In those Colonies and possessions the produce of the States of the Zollverein shall not be subject to any higher or other import duties than the produce of the United Kingdom of Great Britain and Ireland, or of any other country, or of the like kind; nor shall the exportation from those Colonies or possessions to the Zollverein be subject to any other or higher duties than the exportation to the United Kingdom of Great Britain and Ireland."

Stipulations to this effect are entirely unusual in Commercial Treaties. No record exists in the archives of this Department of the circumstances

under which this Article was adopted, or of the reasons which induced Her Majesty's Government at the time to enter into an engagement of such a nature; and it would appear probable that the insertion of these words must have been due to oversight or to a want of adequate consideration of the exact consequences which would flow from them.

The German Government are aware that for many years past the British self-governing Colonies have enjoyed complete Tariff autonomy, and that in all recent Commercial Treaties concluded by Great Britain it has been customary to insert an Article empowering the self-governing Colonies to adhere, or not, at will. No such Article is contained in the Treaty of 1865 between Great Britain and the Zollverein, and the consequence is that certain of the British Colonies, which are all comprised which its operation, find themselves committed by Treaty to a commercial policy which is not in accordance with the views of the responsible Colonial Ministers, nor adequate to the requirements of the people.

Beyond this, the provisions of Article VII of the Treaty of 1865, quoted above, constitute a barrier against the internal fiscal arrangements of the British Empire, which is inconsistent with the close ties of commercial intercourse which subsist and should be consolidated between the mother country and the Colonies.

Under these circumstances, Her Majesty's Government find themselves compelled to terminate a Treaty which is no longer compatible with the general interests of the British Empire. They are, however, anxious at once to commence negotiations for the conclusion of a new Treaty, from which the stipulations of Article VII shall be omitted, and which, whilst containing a clause providing for the facultative adhesion of the British self-governing Colonies shall in other respects be similar to the Treaty now denounced.

Her Majesty's Government feel confident that the Imperial German Government will share their wish for the conclusion of a new and mutually satisfactory Treaty, in the negotiation of which Her Majesty's Government will be happy to consider any suggestions for improved stipulations which may be suggested by the experience gained during the period of over thirty years for which the Treaty of 1865 has subsisted.

I am, &c.
(Signed) *Salisbury.*

Sir F. Lascelles to the Marquess of Salisbury.—
(Received August 2.)

Berlin, July 30, 1897.

My Lord,

In obedience to the instructions contained in your Lordship's despatch of the 28th instant, I have this day addressed a note to Baron von Rotenhan, giving notice of the intention of Her Majesty's Government to terminate the Treaty of Commerce of 1865.

I have also addressed a further note to Baron von Rotenhan in the terms of your Lordship's despatch of the 18th instant, informing him of the reasons which have induced Her Majesty's Government to take this step.

I have, &c.

(Signed) *Frank C. Lascelles.*

Sir F. Lascelles to the Marquess of Salisbury.—
(Received August 2.)

Berlin, July 30, 1897.

My Lord,

With reference to my preceding despatch of this day's date, I have the honour to report that I called upon Baron von Rotenhan this morning to inform him that I had received your Lordship's instructions to notify at once the intention of Her Majesty's Government to terminate the Treaty of Commerce of 1865. I should, therefore, address a note to him in the course of the day to this effect, and at the same time I should have the honour of addressing a further note to him to inform him of the reasons which had induced Her Majesty's Government to take this step.

In reply to Baron von Ratenhan's inquiry as to when the Treaty should termiuate, I said that it would only continue in operation for a year from the date on which the notice was given, that is, from to-day. His Excllency then said that he presumed it would continue in force till the 31st July, 1898, and that till then German goods which were now paying, under protest, higher duties in Canade than were imposed on English goods, would be admitted into Canada on the same footing as the latter.

I replied that I presumed that this would be the case, and I added that your Lordship had instructed me to express the hope that negotiations might be shortly commenced for the conclusion of a new Treaty

I have &c.

(Signed) *Frank C. Lascelles.*

Sir F. Lascelles to the Marquess of Salisbury.—
(Received August 2.)

Berlin, July 31, 1897.

My Lord,

With reference to my immediately preceding despatch, I have the honour to transmit to your Lordship herewith copy and translation of a note which I have received from Baron von Rotenhan, in which his Excellency acknowledges receipt of the notification of the intention of Her Majesty's Government to terminate the Treaty of Commerce between Great Britain and Germany.

I have, &c.

(Signed) *Frank C. Lascelles.*

Inclosure.

Baron Rotenhan to Sir F. Lascelles.

(Translation.) Berlin, July 30, 1897.

The Undersigned has the honour to acknowledge the receipt of Sir Frank Cavendish Lascelles' note of to-day's date, by which the Treaty of Commerce between the German Zollverein and the United Kingdom of Great Britain and Ireland of the 30th May, 1865, is denounced.

As a consequence of this denunciation, the Treaty in question, and the supplementary Agreements relating to its extension to various German States which subsequently joined the German Zollverein, and to Alsace-Lorraine, will cease to be in force after the 30th July, 1898.

The Undersigned avails, &c.

(Signed) *Rotenhan.*

Sir F. Plunkett to the Marquess of Salisbury.—
(Received August 2.)

Brussels, July 30, 1897.

My Lord

With reference to your Lordship's despatch of the 28th instant, I have the honour to forward herewith copy of the note which I addressed yesterday to M. de Favereau giving notice of the intention of Her Majesty's Government to terminate the Treaty of Commerce and Navigation between Great Britain and Belgium signed on the 23rd July, 1862, and informing him that, in virtue of the stipulations contained in Article XXV, that Treaty would accordingly terminate upon the expiration of one year from yesterday.

I have &c.

(Signed) *F. R. Plunkett.*

Inclosure.

Sir F. Plunkett to M. de Favereau.

Brussels, July 29, 1897.

M. le Ministre.

In compliance with instructions received from Her Britannic Majesty's Principal Secretary of State for Foreign Affairs, I have the honour to give hereby to your Excellency notice of the intention of Her Britannic Majesty's Government to terminate the Treaty of Commerce and Navigation between Great Britain and Belgium, which was signed on the 23rd July, 1862. In virtue of the stipulations contained in Article XXV, the Treaty will accordingly terminate upon the expiration of one year from to-day.

Requesting your Excellency will kindly acknowldege receipt of this communication, I avail, &c.

(Signed) *F. R. Plunkett.*

Sir. F. Plunkett to the Marquess of Salisbury.—
(Received August 2.)

Brussels, July 30, 1897.

My Lord,

I have the honour to forward herewith copy of the note which, in compliance with the instructions contained in your Lordship's despatch of the 28th instant, I addressed yesterday to M. de Favereau explaining the reasons which have induced Her Majesty's Government to notify the termination of the Anglo-Belgian Treaty of Commerce and Navigation of the 23rd July 1862, and expressing their desire to commence negotiations for the conclusion of a new Treaty.

I have, &c.

(Signed) *F. R. Plunkett.*

Inclosure.

Sir F. Plunkett to M. de Favereau.

Brussels, July 29, 1897.

M. le Ministre,

In compliance with instructions received from the Marquess of Salisbury, I have the honour to explain to your Excellency the reasons which have decided Her Britannic Majesty's Government to give the notice, communicated to you by me to-day, of the termination of the Treaty of Commerce and Navigation of the 22nd July between Great Britain and Belgium.

The general stipulations of the Treaty in question, being based on the principle of most-favoured-nation treatment, are in accordance with the present views of Her Britannic Majesty's Government, but Article XV is in the following terms:—

„Articles the produce or manufacture of Belgium shall not be subject in the British Colonies to other or higher duties than those which are, or may, be imposed upon similar articles of British origin."

A stipulation to such effect is intirely unusual in Commercial Treaties. No record exists in the archives of this Department of the circumstances under which this Article was adopted, or of the reasons which induced Her Britannic Majesty's Government at the time to enter into an agreement of such a nature.

The Belgian Government are aware that for many years past the British self-governing Colonies have enjoyed complete Tariff autonomy; and that in all recent Commercial Treaties concluded by Great Britain it has been customary to insert an Article empowering the self-governing Colonies to adhere, or not at will. No such Article is contained in the Anglo-Belgian Treaty of 1862, and the consequence is that certain of the British Colonies, which are all comprised within its operation find themselves committed by Treaty to a commercial policy which is not in

accordance with the views of the responsible Colonial Ministers, nor adequate to the requirements of the people.

Beyond this the provisions of Article XV of the Treaty of 1862, quoted above, constitute a barrier against the internal fiscal arrangements of the British Empire, which is inconsistent with the close ties of commercial intercourse which subsist, and should be consolidated between the mother country and the Colonies.

Under these circumstances Her Britannic Majesty's Government find themselves compelled to terminate a Treaty which is no longer compatible with the general interests of the British Empire. I have, however, been instructed to assure your Excellency that they are anxious at once to commence negotiations for the conclusion of a new Treaty, from which the stipulations of Article XV shall be excluded, and which, whilst containing a clause providing for the facultative adhesion of the British self-governing Colonies, shall, in other respects, be similar to the Treaty now denounced.

Her Britannic Majesty's Government feel confident that the Belgian Government will share their wish for the speedy conclusion of a new and mutually satisfactory Treaty, in the negotiation of which Her Britannic Majesty's Government will be happy to consider any suggestions for improved stipulations which may be suggested by the experience gained during the thirty-five years' continuance of the Treaty of 1862.

I avail, &c.

(Signed) *F. R. Plunkett.*

Sir. F. Plunkett to the Marquess of Salisbury.—
(Received August 2.)

(Extract.) Brussels, August 1, 1897.

In view of their importance, I took, myself, to the Foreign Department on the 29th ultimo the two notes which I adressed, to M. de Favereau in compliance with the instructions in your Lordships despatches of the previous day, and handed them to his Excellency.

As M. de Favereau showed some surprise at such a grave decision being communicated to him thus abruptly, I said that the Belgian Government must have known, by what had been said in the British Parliament and in the London newspapers, that no other course lay open to Her Majesty's Government, and surely the most honest and straightforward course was for Her Majesty's Government to denounce a Treaty containing an engagement which they had no legal power to enforce.

M. de Favereau inquired whether your Lordship had also denounced the Treaty with Germany. I said that I had no information on this point, but I considered it certain that the corresponding Treaty with Germany had also been denounced, for the reasons which necessitated the abandonment of the Treaty with Belgium applied equally to that with Germany.

I impressed upon his Excellency your Lordship's readiness to enter at once on negotiations for a new Treaty of Commerce.

I have since seen his Excellency twice, and on receipt of your Lordship's telegram of the day before yesterday informed him that the Treaty of 1865 with the Zollverein had also been denounced.

M. de Favereau told me last night that M. Lorand has given notice of a question in the Chambers on the denunciation of the Anglo-Belgian Treaty, and that he would reply the day after to-morrow.

Sir F. Plunkett to the Marquess of Salisbury.—(Received August 2.)

Brussels, August 1, 1897.

My Lord,

With reference to my despatch of the 30th ultimo, I have the honour to inclose copy of the official Notification published this morning in the „Moniteur Belge" that Her Majesty's Government had denounced the Treaty of Commerce and Navigation signed on the 23rd July, 1862, between Belgium and Great Britain, and that the Belgian Government had accepted the denunciation, but that the Treaty would remain in force until the 29th July, 1898.

The Notification adds that Her Majesty's Government had at the same time announced their readiness to commence negotiations for the conclusion of a new Treaty.

I have, &c.

(Signed) *F. R. Plunkett.*

Inclosure.

Extract from the „Moniteur Belge" of August 1, 1897.

Par une communication officielle du 29 Juillet, 1897, le Gouvernement de Sa Majesté la Reine du Royaume-Uni de la Grande-Bretagne et d'Irlande a dénoncé le Traité de Commerce et de Navigation conclu le 23 Juillet, 1862, entre la Belgique et la Grande-Bretagne,

Le Gouvernement du Roi a donné acte de cette dénonciation.

Aux termes de l'Article XXV du Traité, celui-ci demeurera obligatoire jusqu'au 29 Juillet, 1898.

En notifiant la dénonciation dont il s'agit, le Gouvernement de Sa Majesté Britannique a fait savoir qu'il était disposé à entrer en négociation avec le Gouvernement du Roi pour la conclusion d'un nouveau Traité.

Certifié par le Secrétaire-Général
du Ministère des Affaires Étrangères,

(Signé) Baron *Lambermont.*

Sir F. Lascelles to the Marquess of Salisbury.—Received August 5.

Berlin, August 3, 1897.

My Lord.

With reference to your Lordship's despatch of the 28th ultimo, I have the honour to transmit to your Lordship herewith copy and translation of a note which I have received from the German Government respecting negotiations for a new Treaty of Commerce.

I have, &c.

(For Her Majesty's Ambassador),

(Signed) *Gough.*

Inclosure.

Baron Rotenhan to Sir F. Lascelles.

(Translation.) Foreign Office, Berlin, July 31, 1897.

The Undersigned has the honour to express his thanks to his Excellency Sir Frank Cavendish Lascelles, Her Britannic Majesty's Ambassador Extraordinary and Plenipotentiary, for his further note of yesterday, and to observe that he will submit the proposal made therein respecting the opening of negotiations for a new Treaty of Commerce between Germany and Great Britain to the Imperial Government for their consideration.

At the same time the Undersigned avails, &c.

(Signed) *Rotenhan.*

Sir F. Plunkett to the Marquess of Salisbury.—(Received August 5.)

Brussels, August 3, 1897.

My Lordy,

I Received late yesterday evening the note, copy of which is inclosed, from M. de Favereau, announcing receipt of the communication which I had made to him on the 29th ultimo, denouncing the Treaty of Commerce and Navigation signed on the 23rd July, 1862, between Great Britain and Belgium.

His Excellency takes friendly note of my declaration that Her Majesty's Government is willing to open negotiations for the conclusion of a new Treaty, and expresses the hope that a Treaty, based on mutually advantageous conditions, may be concluded in time to take effect from the expiration of the present arrangement.

I have, &c.

(Signed) *F. R. Plunkett.*

Inclosure.

M. de Favereau to Sir F. Plunkett.

Ministère des Affaires Étrangères, Bruxelles, le 2 Août, 1897.

M. le Ministre,

Votre Excellence, par sa lettre du 29 Juillet dernier, a dénoncé, au nom du Gouvernement de Sa Majesté Britannique, le Traité de Commerce

et de Navigation conclu le 23 Juillet, 1862, entre la Belgique et la Grande-Bretagne.

J'ai l'honneur de lui donner acte de cette dénonciation.

En portant à ma connaisance les raisons qui engagent le Gouvernement Britannique à mettre fin à l'Acte International du 23 juillet 1862, votre Excellence a bien voulu me faire part du désir du Cabinet de Londres de voir s'ouvrir des négociations en vue de la signature d'un nouveau Traité.

Ce désir est aussi celui du Gouvernement du Roi, et celui-ci forme des vœux pour qu'un Traité conclu sur des bases avantageuses pour les deux parties puisse être mis en vigueur lorsque prendra fin l'acte qui régit depuit trente-cinq ans les relations commerciales entre la Belgique et la Grande-Bretagne, et sous l'empire duquel ont atteint un si heureux développement.

Je saisis, &c.

(Signé) *De Favereau.*

The Marquess of Salisbury to Sir F. Plunkett.

Foreign Office, August 11, 1897.

Sir,

I have received your despatch of the 30th ultimo inclosing copy of a note which you adressed to the Belgian Government on the 29th ultimo explaining the reasons which induced Her Majesty's Government to denounce the Treaty of Commerce between Britain und Belgium of the 23rd July, 1862, and expressing their desire to commence negotiations for the conclusion of a new Treaty.

The terms of your note are approved by Her Majesty's Government.

I am, &c.

(Signed) *Salisbury.*

The Marquess of Salisbury to Sir F. Lascelles.

Foreign Office, August 17, 1897.

Sir,

With reference to previous correspondence respecting the Canadian Customs Tariff, I have to inform your Excellency that Her Majesty's Government have had under their careful consideration representations made by the German Ambassador at this Court to the effect that differential treatment of German goods as against British goods on entering Canadian territory is a contravention of the terms of Article VII of the Treaty between the Zollverein and Great Britain of the 30th May, 1865, and they have been advised that the Treaty is binding on Her Majesty in regard to trade between the Zollverein and Canada, and requires that goods the produce or manufacture of Germany should be admitted into Canada at the same rate of duty as similar articles of British origin.

I have to request that your Excellency, in communicating this decision to the German Government, will inform them that the Government of

Canada have been requested to issue instructions at once for the admission of German goods to the benefits of the reciprocal Tariff so long as the Treaty of 1865 remains in force, and to repay on demand any excess duties already levied.

I am, &c.
(Signed) *Salisbury.*

The Marquess of Salisbury to Sir F. Plunkett.

Foreign Office, August 17, 1897.

Sir,

With reference to my despatch of the 15th May last respecting the Canadian Customs Tariff, I have to inform you that Her Majesty's Government have had under their careful consideration the representations made by the Belgian Minister at this Court, to the effect that differential treatment of Belgian goods as against British goods on entering Canadian territory is a contravention of the terms of Article XV of the Treaty between Great Britain and Belgium of the 23rd July, 1862, and they have been advised that the Treaty is binding on Her Majesty in regard to trade between Belgium and Canada, and requires that goods the produce or manufacture of Belgium should be admitted into Canada at the same rate of duty as similar articles of British origin.

I have to request that, in communicating this decision to the Belgian Government, you will inform them that the Government of Canada have been requested to issue instructions at once for the admission of Belgian goods to the benefits of the reciprocal Tariff so long as the Treaty of 1862 remains in force, and to repay on demand any excess duties already levied.

I am, &c.
(Signed) *Salisbury.*

Mr. Welby to the Marquess of Salisbury. — (Received August 23.)

Brussels, August 21, 1897.

My Lord,

With reference to your Lordship's despatch of the 17th instant, I have the honour to transmit herewith a copy of the notice which has this day been published in the „Moniteur Belge" with regard to the admission of Belgian goods to the benefits of the Canadian Reciprocal Tariff so long as the present Treaty between Great Britain and Belgium remains in force.

I have, &c.
(Signed) *George E. Welby.*

Inclosure.

Extract from the "Moniteur Belge" of August 21, 1897.

Par une communication officielle du 18 Aôut, 1897, le Gouvernement de Sa Majesté la Reine du Royaume-Uni de la Grande-Bretagne et d'Ir-

lande a annoncé au Gouvernement du Roi que des instructions ont été données pour que les produits d'origine ou de manufacture Belge soient admis à bénéficier au Canada des taxes réduites du Tarif de Réciprocité aussi longtemps que le Traité de Commerce et de Navigation du 23 juillet 1862, entre la Belgique et la Grande-Bretagne restera en vigueur, c'est-à-dire, jusqu'au 29 juillet 1898, et pour que les taxes qui auraient été payées en trop soient restituées sur demande.

Certifié par le Secrétaire-Général
du Ministère des Affaires Étrangères,
(Signé) Baron *Lambermont.*

The Marquess of Salisbury to Baron Whettnall.

Foreign Office, October 9, 1897.

Sir,

With reference to your inquiry on the 12th ultimo on the subject of the intentions of Canada and the other British self-governing Colonies with regard to the negotiations for a new Treaty of Commerce between this country and Belgium, I have the honour to transmit herewith copy of a despatch from the Marquess of Ripon to the Governor-General of Canada, the Governors of the Australasian Colonies (except West Australia), and the Governor of the Cape, dated the 28th June, 1895, in which are fully set forth the conditions and limitations under which separate commercial arrangements on behalf of a Colony may be made with foreign countries. These conditions apply to all the self-governing Colonies, of which I have the honour to inclose a list.

I have further the honour to state that in any negotiations for a new Treaty of Commerce between this country and Belgium, Her Majesty's Government would propose the insertion of the usual clause giving the self-governing Colonies the option of adhering or not to the new Treaty.

If any Colony should decline to adhere and should wish that negotiations for a separate Agreement should be entered upon, such a request would receive the consideration of Her Majesty's Government.

In the exceptional circumstances of the present case, the Governor-General of Canada has been requested to furnish the views of his Ministers as to the regulation of the commercial relations between the Dominion and Belgium, and I shall not fail to acquaint you in due course of his Excellency's reply.

I have, &c.
(Signed) *Salisbury.*

Sir F. Lascelles to the Marquess of Salisbury.—
(Received March 25.)

(Telegraphic.) Berlin, March 25, 1898.

I asked M. de Bülow to-day what the conditions were under which it is proposed that Great Britain and her Colonies should continue to receive most-favoured-nation treatment.

M. de Bülow read to me a Memorandum from the Minister of Finance, in which it was pointed out that there may be some danger in applying to the Reichstag for power to conclude a special arrangement with Great Britain, and he asks whether Her Majesty's Government would be disposed to temporary maintenance of the status quo in a form that would dispense the German Government from applying to the Legislature.

Her Majesty's Government would only have to declare, for this purpose, that effect would not be given until some day later than the 30th July next (for instance, to 30th July, 1899) to the notice they gave to terminate the existing Treaty.

I told him I had little hope that Her Majesty's Government would be able to consent, but that I would at once telegraph to your Lordship.

The Marquess of Salisbury to Sir F. Lascelles.

(Telegraphic.) Foreign Office, April 1, 1898.

With reference to the negotiations for a new Commercial Treaty, I request that you will inform the German Government that Her Majesty's Government regret their inability, under any circumstances, to renew the provisions of Article VII of the Treaty of 1865, which grant to Germany the same treatment in respect of import and export duties in the British Colonies as is accorded to the United Kingdom.

Sir F. Lascelles to the Marquess of Salisbury.—
(Received April 4.)

(Extract.) Berlin, March 31, 1898.

In an interview which I had with M. de Bülow yesterday, I asked his Excellency whether he could now form me of the conditions under which it was proposed to temporarily extend most-favonoured-nation treatment to Great Britain and her Colonies, after the existing Commercial Treaty should have terminated.

M. de Bülow replied that it appeared to him that the simplest way of arranging the matter would be for Her Majesty's Government to agree to the suggestion made by Count Posadowsky, that Her Majesty's Government should declare that the notice they had given of the termination of the Treaty should not take effect until some date later than the 30th July, 1899.

M. de Bülow said this suggestion had been put forward purely for Parliamentary reasons. The Reichstag was about to adjourn for the Easter holidays, and there would be considerable difficulty in inducing the Members to return after Easter for the conclusion of absolutely necessary business. A provisional arrangement to continue most-favoured-nation treatment to Great Britain and her Colonies would give rise to discussion and might be rejected. If this should be the case it would be impossible

to avoid the application of the Autonomous Tariff to English goods, which would cause great disturbance to trade, The present Treaty had existed for upwards of thirty years, and he hoped that, under the circumstances, Her Majesty's Government might consent to its continuance for one year more. His Excellency added that he had telegraphed to Count Hatzfeldt in this sense, but had not yet received a reply.

I said that I had not failed to report to your Lordship, both by telegram and despatch, the suggestion which he had made to me on the 25th instant, and I reminded him that I had expressed the opinion that Her Majesty's Government might find it very difficult to postpone the termination of the Treaty for another year. I would, however, not fail to report what he said to your Lordship.

Sir F. Lascelles to the Marquess of Salisbury.—
(Received April 4.)

Berlin, April 1, 1898.

My Lord,

On the receipt this afternoon of your Lordship's telegram of to-day, I called upon Baron von Richthofen to inform him that in no circumstances could Her Majesty's Government renew the engagements contained in Article VII of the Treaty of 1865 which grant to Germany the same treatment as the United Kingdom in regard to import and export duties in the Colonies.

Baron von Richthofen said that he regretted this decision of Her Majesty's Government, although he had been prepared for it by what I had said to him yesterday, as reported in my despatch of yesterday's date.

In reply to my inquiry whether his Excellency could now inform me on what conditions the German Government would be prepared to extend temporarily most favoured treatment to British goods after the 30th July next, Baron von Richthofen said that he did not think that these conditions had as yet been specified, as it had been hoped that Her Majesty's Government would have consented to the prolongation of the existing Treaty. He seemed to think that the German Government would be able to obtain from the Reichstag the necessary power to enable the Federal Council to grant most-favoured-nation treatment.

I have, &c.
(Signed) *Frank C. Lascelles.*

The Marquess of Salisbury to Sir F. Lascelles.

Foreign Office, April 9, 1898.

Sir,

I instructed your Excellency by telegram on the Ist instant to inform the German Government that Her Majesty's Government could not in any circumstances agree to the renewal of Article VII of the Treaty at present in force between the two countries.

The reasons which led Her Majesty's Government to denounce this Treaty were fully explained in my despatch of the 28th July, 1897, in which it was pointed out that the provisionsof Article VII were not only entirely unusual in Commercial Treaties, but opposed to the complete Tariff autonomy which has for some years past been enjoyed by the self-governing Colonies, and inconsistent with the close ties of commercial intercourse between the mother-country and the Colonies which it is the most earnest desire of Her Majesty's Government to secure and to consolidate.

In these circumstances, it is the fixed policy of Her Majesty's Government not to conclude in the future any Treaty engagements which would interfere in any way with such fiscal or Tariff arrangements as may be determined on between the different parts of the British Empire.

Your Excellency should explain to the German Government that it would be incompatible with this determination to renew even for a time the provisions of Article VII of the existing Treaty, which would limit and restrain the freedom of the Colonies in this respect.

In view, however, of the disadvantage of leaving the commercial arrangements of the two countries unregulated by any Agreement, Her Majesty's Government would be prepared to conclude a temporary arrangements applicable to the United Kingdom only, guaranteeing in all matters of tariff, commerce, and navigation the treatment accorded to the most favoured foreign nation, with a reservation as to bounties.

To this arrangement the Colonies would be invited to adhere, but would be free to accept or decline up to the 30th July next.

The arrangement would be concluded for one year, unless a new Treaty should be negotiated before the expiration of that period.

Your Excellency should propose to the German Government the conclusion of an Agreement of this nature.

You are at liberty to inform them that Her Majesty's Minister at Brussels has been instructed to make a similar proposal to the Belgian Government.

I am, &c.
(Signed) *Salisbury.*

Sir F. Lascelles to the Marquess of Salisbury.
(Received April 29.)

Berlin, April 27, 1898.

My Lord,

I have the honour to inclose copies and translation of a Bill which was introduced in the Reichstag on the 21st instant, the object of which is to empower the Federal Council to extend most-favoured-nation treatment to Great Britain and her Colonies after the 30th July next and up to the 30th July, 1899.

Your Lordship will observe that in the Exposé des Motifs attached to the Bill it is declared to be understood that the Federal Council will

only make use of this authority as regards the British Empire, or portions of the same, in so far as no restriction of the most-favoured-nation treatment of German subjects or of goods imported from Germany takes place in them, and especially as regards British Colonies and possessions, that German subjects and products are not more unfavourably treated there than those of the United Kingdom. It shall also be a necessary condition for the exercise of this authority on the part of the Federal Council that the customs duties in the British territories in question shall not be altered in a manner unfavourable to German trade.

I have, &c.
(For Her Majesty's Ambassador),
(Signed) *Gough.*

Inclosure.

Bill introduced in the Reichstag, April 21, 1898.

(Translation.) Berlin, April 21, 1898.

In the name of His Majesty the Emperor, the Undersigned has the honour to submit to the Reichstag, for its constitutional decision, the annexed draft of a Law respecting commercial relations with the British Empire, as approved by the Federal Council.

For the Imperial Chancellor,
(Signed) Count von *Posadowsky.*

To the Reichstag.

Draft of a Law respecting Commercial Relations with the British Empire.

We, William, by the grace of God, German Emperor, King of Prussia, &c., ordain in the name of the Empire, with the consent of the Federal Council and of the Reichstag, as follows:

The Federal Council is authorized to extend to the subjects and to the products of the United Kingdom of Great Britain and Ireland, as also the subjects and products of British Colonies and foreign possessions, during the period up to the 30th July, 1899, the advantages which are accorded by the Empire to the subjects or products of the most favoured nation.

Given under our Imperial hand and seal, &c.

Exposé des Motifs.

On the 30th July last Her Britannic Majesty's Government denounced the Treaty of Commerce between the Zollverein and the United Kingdom of Great Britain and Ireland of the 30th May, 1865. In consequence of this denunciation, the Treaty, together with the Supplementary Agreements since made, will terminate on the 30th July next.

As Her Britannic Majesty's Government have declared their readiness to conclude a new Treaty negotiations have been entered into, which have not, however, as yed led to a conclusion.

In order that the time necessary for the negotiations may be kept free, it is desirable that the Federal Council should be authorized to extend to the various portions of the British Empire for one year after the termination of the Treaty of the 30th May, 1865, the most favoured treatment hitherto accorded to them. The Federal Council will only be able to make use of this authorization with regard to the British Empire, or portions of the same, in so far as no alteration of most-favoured-nation treatment takes place in them to the disadvantage of the subjects or export of Germany, and especially also in so far as in British Colonies and possessions the subjects and products of Germany are not treated in a more unfavourable manner than those of the British mother-country. Similarly, it will be a condition for the exercise of this authorization on the part of the Federal Council that the customs duties levied in the British territories in question shall not be altered in a manner materially disadvantageous to German export trade.

Sir F. Lascelles to the Marquess of Salisbury.—(Received May 2.)

Berlin, April 30, 1898,

My Lord,

With reference to my despatch of the 27th instant, I have the honour to inform your Lordship that the Government Bill relative to the commercial relations between Great Britain and Germany was read for the first and second times in the Reichstag on the 28th instant.

I have the honour to transmit to your Lordship herewith copy and translation of the speech made by the Minister in charge in introducing the Bill.

I have, &c.

(Signed) *Frank C. Lascelles.*

Inclosure.

Report of Proceedings in the Reichstag of April 29, 1898.

(Translation.)

The first reading of the Government Bill to regulate the commercial relations of the Empire with Great Britain and her possessions.

Graf Posadowski, Secretary of State for the Interior, said:

„In consequence of the denunciation received from the English Government, the Commercial Treaty between England and Germany will cease to be in force on the 30th July. As is well known, Article VII of the existing Treaty secures to Germany the absolute and unrestricted right to most-favoured-nation treatment not only in the British Empire, but in all the British possessions. The English Government is not inclined to renew this clause in any furture Treaty, and, as you are aware, has based on this ground its denunciation of the existing arrangement. It is obvious that if Germany, in this manner, ceased to enjoy absolute most-favoured-

nation treatment in Great Britain and her possessions, the commercial position of Germany in the British Empire would be changed for the worse, and it is also clear that through this attitude of the British Government, which refuses to engage and compromise the liberty of action of her selfgoverning Colonies in matters affecting German trade, the commercial negotiations which are being carried on between the two Governments are rendered more difficult and less likely to reach a speedy termination. We regret to say that we have not yet succeeded in arriving at an agreement, and it is out of the question, in view of the short time which yet remains before the house is dissolved, that we should be able to submit a new Treaty for your approval. It is, however, desirable that there should not be a commercial interregnum bettween the two nations which are so closely bound together by such various and important commercial interests, and this is the reason for asking you to intrust us with the full powers detailed in the Bill before you. I have nothing to add to the statement which accompanies the Bill, and I can only assure you that we shall make no use of the full powers given us unless we obtain in exchange for our offer of most-favoured-nation treatment offers of concessions of equal value and entirely satisfactory."

Sir F. Lascelles to the Marquess of Salisbury.—(Received May 16.)

Berlin, May 10, 1898.

My Lord,

With reference to my despatch of the 30th ultimo, I have now the honour to report that the Government Bill relative to the commercial relations between Great Britain and Germany passed the third reading in the Reichstag, unanimously and without debate, on the 30th ultimo.

I have, &c.

(Signed) *Frank C. Lascelles.*

Sir F. Lascelles to the Marquess of Salisbury.—(Received May 17.)

Berlin, May 15, 1898.

My Lord,

With reference to my despatch of the 10th instant, I have now the honour to forward to your Lordship the text of the Law, with translation, empowering the Bundesrath to grant most-favoured-nation treatment to Great Britain, her Colonies and foreign possessions, up to the 30th July 1899. This Law was signed on the 11th instant, and was published yesterday in the official „Reichsanzeiger."

I have, &c.

(Signed) *Frank C. Lascelles.*

Inclosure.

Law regarding Commercial Relations with British Empire of May 11, 1898.

(Translation.)

We, William, &c., decree, in the name of the German Empire, after due approval by the Bundesrath and Reichstag, as follows:

The Bundesrath is empowered to grant to the subjects and products of the United Kingdom of Great Britain and Ireland, as also to the subjects and products of British Colonies and British foreign possessions, for the period up to the 30th July, 1899, those privileges which are granted by the German Empire to the subjects and products of the most favoured nation.

Granted under our hand and seal at Urville, the 11th May 1898.

(Signed) *Wilhelm.*

(Signed) Graf *von Posadowsky.*

The Marquess of Salisbury to Sir F. Lascelles.

Foreign Office, May 27, 1898.

Sir,

I have received your Excellency's despatch of the 15th instant, inclosing text and translation of the Law of the 11th May of this year, empowering the Bundesrath to grant to Great Britain, her Colonies and dependencies, most-favoured-nation treatment up to the 30th July, 1899.

It is presumed that the German Government will make some proposals as to the arrangements to be made between the two Powers under the provisions of this Act, and Her Majesty's Government await such proposals with interest.

I am, &c.

(Signed) *Salisbury.*

Sir F. Lascelles to the Marquess of Salisbury.—(Received June 6.)

Berlin, June 3, 1898.

My Lord,

I have the honour to report that I took an opportunity of speaking to Baron von Richthofen this morning on the subject of the proposal as to a provisional commercial arrangement.

Baron von Richthofen said that the German Government were not prepared to make any further proposals with regard to a provisional commercial arrangement. The German Government had proposed the prolongation of the existing Treaty for a year, but Her Majesty's Government had declined this proposal, and his Excellency did not see what further proposals the German Government could make.

I replied that, in that case, it would be very important if his Excellency could inform me whether the Federal Council would make use of

the power which they had obtained from the Reichstag to extend most-favoured-nation treatment to British merchandize after the expiration of the Treaty on the 30th July. I explained that many complaints had been received at your Lordship's Office of the uncertainty which prevailed on this point, and which was causing considerable injury to trade.

Baron von Richthofen replied that he was unable to give me an official answer on this subject. Many similar complaints had been received at the Ministry for Foreign Affairs form German merchants, but the Federal Council had not yet come to any decision on the subject, and it was, therefore, not possible to give an official answer. His personal opinion was that no change would be made with the United Kingdom or those parts of the British Empire in which the system, which had hitherto prevailed, continued, but that a difference would probably be made as regards those parts of the Empire whish should affect any change in the system. As far as he knew Canada was the only Colony which intended to alter the system, and it was his opinion that it would be in regard to Canada alone that any change would be made by the German Customs authority.

I thanked Baron von Richthofen for the information he had given me, which, however, would not dispel the uncertainty of which both German and English merchants complained, and as the time was approaching when the Treaty would terminate, it appeared to me that the question might arise as to whether it would not be well to warn the mercantile classes that, although not probable, it was possible that some changes of Tariff might be made, so that they might take precautions in time. How would it be, I said, if the exporters in each country would be advised to leave to the importers in the other the care of settling the customs duties in their own countries, and decline the responsibility of dealing with them themselves.

Baron von Richthofen sait that he did not think the time had come for any official communication to the merchants. The Federal Council would probably, nay, almost certainly, consider the question at their next sitting, which would take place within a week, and would, no doubt, come to a decision in the sense he had indicated, and which he summed up in the sentence: „Traitement de fait, à titre de réciprocité."

I have, &c.
(Signed) *Frank C. Lascelles.*

Viscount Gough to the Marquess of Salisbury.—
(Received June 14.)

(Telegraphic.) Berlin, June 14, 1898.

The following Notification, dated 11th instant, was published last night in the „Reichsanzeiger":

„The Federal Council have decided, by virtue of the Law of the 11th May last relative to commercial relations with the British Empire, that on and after the 31st July next, and until further notice, all the

advantages which are granted by the German Empire to the subjects and products of the most favoured nation shall be granted to the subjects and products of the United Kingdom of Great Britain and Ireland, as also to those of the British Colonies and possessions, with the exception of Canada."

Viscount Gough to the Marquess of Salisbury.—
(Received June 18.)

Berlin, June 15, 1898.

My Lord,

With reference to Sir F. Lascelles' despatch of the 3rd instant, I have the honour to inclose copy and translation of a Notification, dated the 11th June, which appeared in last night's „Reichsanzeiger," recording the decision of the Federal Council to continue most-favoured-nation treatment to Great Britain and her Colonies and possessions, with the exception of Canada, from the 31st proximo onwards, and until further notice. This decision is taken in virtue of powers conferred upon the Federal Council by the Imperial Law of the 11th ultimo, copy and translation of which were inclosed in Sir F. Lascelles' despath of the 15th of that month.

I venture to call your Lordship's attention to the fact that this decision, being given „until further notice" only, may at any time be altered so as to exclude British Colonies who may, before the conclusion of a new Treaty, grant preferential treatment to the United Kingdom.

I also inclose a Memorandum by Mr. Harriss-Gastrell, showing the manner in which this Notification has been received by the German press.

I have, &c.
(Signed) *Gough.*

Inclosure 1.

Extract from the „Reichsanzeiger" of June 14, 1898.

Notice respecting the Commercial Relations with the British Empire (June 11, 1898).

(Translation.)

The Bundesrath has decided that, by virtue of the Law of the 11th May 1898, concerning the commercial relations with the Britich Empire, there will be granted to the subjects and products of the United Kingdom of Great Britain and Ireland, as also to those of the British Colonies and foreign possessions with the exception of Canada, all those advantages which are granted by the German Empire to the subjects and products of the most favoured nation. This treatment is to take effect from the 31st July of this year, and until further notice.

Inclosure 2.

Memorandum by Mr. Harriss-Gastrell on Notice of June 11, 1898, on German Commercial Relations with the British Empire.

The official Notice of the treatment to be accorded by the German Empire to imports from the United Kingdom, her Colonies and possessions,

was published in the „Reichanzeiger“ of the 14th, which appears in the evening.

The newspapers of the 15th comment favourably on this Notice, but the subject is not even mentioned in many of them.

The „National Zeitung“ says that a provisional arrangement of this nature was to be expected, and corresponds to the actual necessities of the case. It adds that the imports from Canada, which will now be subjected to differential duties in Germany, anly amount lo one-tenth per cent, of the total importation from abroad, and that its value is about 100,000l, (one million marks).

The „Börsen Courier“ says that the beginning of a Tariff war with Canada has now come, and that from lst August next, German products will have to pay duties in Canada which will amount to 33 1/3 per cent. higher than those on British goods. Canada provoked this action by according preference to English imports and the greatest damage will fall on the Germans.

German exports to Canade exceed by far the imports thence, and amounted last year to 875,000l. 17·5 million marks). The chief part of this exportation was made up of raw sugar, which consisted of some 17,605 metric tons. By this action, it is the German sugar industry that is hit the hardest.

Means will now have to be taken to prevent Canadian goods escaping the higher autonomous duties.

The Law of the 11th May gave the Bundesrath a year in which to negotiate a Treaty on the most-favoured-nation basis should Canada agree to give German goods equal treatment with those of Great Britain. This, however, is at present out of the question and it is quite unlikely that the Reichstag would be assembled in the autumn on this account.

The „Kölnische Zeitung“ of the 15th merely draws attention to the Notice of the Bundesrath, and says that it has, by so doing, enabled traders to take their measures accordingly and in due time. It also quotes in extenso the comments of the „Börsen Courier.“

On the whole, there is a remarkable dearth of all commeut on this important announcement.

Viscount Gough to the Marquess of Salisbury.
(Received June 20.)

Berlin, June 17, 1898.

My Lord,

With reference to my despatch of the 15th instant, I have the honour to report that I have received a note verbale from the German Foreign Office, dated yesterday, inclosing copies of the decision of the Bundesrath on the question of provisional commercial relations with Great Britain, and stating that the Imperial Ambassador in London has been instructed to give to Her Majesty's Government certain explanations with regard to

this measure, by which the conclusion of a special Agreement between Great Britain and Germany for the regulation of their provisional commercial relations has been rendered unnecessary.

I have, &c.
(Signed) *Gough.*

Count Hatzfeldt to the Marquess of Salisbury.
(Received June 24.)

(Translation.) German Embassy, London, June 22, 1898.

My Lord,

As your Excellency will see from the annexed copy of No. 27 of the German "Reichs Gesetzblatt," p. 909, the Bundesrath determined, on the 11th instant, in accordance with the Law of the 11th May last relative to commercial relations with the British Empire, to continue to allow most favoured treatment to the nationals and to the products of Great Britain and British Colonies and foreign possessions, with the exception of Canada, from the 31st July until further notice.

In explanation of this resolution I venture to add, by direction of my Government, that they would gladly have granted most favoured treatment to Canada also, but in the meantime they are, to their regret, not in a position to do so, as, from information which has reached them, it must be considered as certain that in Canada, after the 30th July next, Germany will not be left in enjoyment of her present position, but will be treated differentially as regards the British mother-country. Should Canada, however, determine to continue, after the term in question, to accord Germany an equal position with Great Britain, the Imperial Government would not hesitate to have the decision of the Bundesrath subsequently extended to that Colony.

I have, &c.
(Signed) *P. Hatzfeldt.*

Inclosure.

Extract from the „Reichs Gesetzblatt" No. 27.

Notice respecting Commercial Relations with the British Empire, dated June 11, 1898.

In accordance with the Law relating to commercial relations with the British Empire of the 11th May, 1898 ("Reichs Gesetzblatt," p. 175), the Bundesrath has resolved that the nationals and the products of the United Kingdom of Great Britain and Ireland, as well as of the British Colonies and foreign possessions, with the exception of Canada, shall receive, from the 31st July next until further notice, such privileges as are granted by the Empire to the nationals and the products of the most favoured nation.

The Chancellor's Deputy,
(Signed) Graf von *Posadowsky.*

Berlin, June 11, 1898.

The Marquess of Salisbury to Sir F. Lascelles.

(Extract.) Foreign Office, August 12, 1898.

With reference to Viscount Gough's despatch of the 15th June last, I have received from the Colonial Office a letter from the High Commissioner for Canada, in which he expresses the regret of the Dominion Government at the decision of the German Government to discontinue most-favoured-nation treatment of imports from Canada on the expiry of the Zollverein Treaty of 1865, and requests that representations may be made to the German Government with a view to inducing them to reconsider their decision.

The Secretary of State for the Colonies observes that, if as stated by Lord Strathcona, it is the case that Germany extends most-favoured-nation treatment to the Colonies of other countries which grant preferential treatment to the products of the Metropolitan country, it is not apparent on what grounds they refuse most-favoured-nation treatment to the products of the Dominion.

I request that you will ascertain and report the practice of the German Government in this respect, in order that I may be in a position to decide whether any useful object would be attained by making a representation to the German Government on the subject.

Sir F. Lascelles to the Marquess of Salisbury.
(Received August 26.)

Berlin, August 22, 1898.

My Lord,

With reference to your Lordhip's despatch of the 12th instant relative to the customs treatment in Germany of imports from foreign Colonies which grant preferential treatment to the Metropolitan country, I have the honour to inclose a Memorandum drawn up by Her Majesty's Consul-General at Hamburg on this subject.

Mr. Ward states that it is quite indisputable that imports from French Colonies and possessions are treated in Germany in the same way as imports from France proper; and, for convenience of reference, he has given in his Memorandum the prominent points of the customs regime established between France and her Colonial possessions.

The Memorandum also refers to the Netherlands, the trade of Dutch Colonies and possessions with Germany being of more importance than the trade of Germany with the french Colonies.

Spain and Portugal do not enjoy most-favoured-nation treatment either for themselves or their Colonies, but there seems to be no reduced Tariff on sugar, tobacco, and cigars. Therefore, as regards these important productions, the two countries are not unfavourably affected.

I have, &c.
(For the Ambassador),
(Signed) *Gough.*

Inclosure.

Memorandum.

1. The official German publication, entitled "Allgemeiner und Vertrags Zolltarif für das Deutsche Reich mit dem Zolltarifgesetz und Bestimmungen über die Tara": Sonderabdruck aus dem Deutscheu Handels-Archiv, herausgegeben vom Reichs Amt des Innern Januarheft 1896 (Berlin 1896, Mittler und Sohn, Kgl. Hofbuchhandlung) states on p. 5, under the head of "II Allgemeiner und Vertrags Zoll-Tarif": "Die vertragsmässigen Begünstigungen finden zur Zeit auf die betreffenden Waren Anwendung, wenn sie aus Aegypten . . . . . Frankreich einschliesslich der Kolonien und auswärtigen Besitzungen sowie des Fürstentums Monaco . . Madagascar; . . . . . den Niederlanden einschliesslich der Kolonien und auswärtigen Besitzungen . . . . . kommen, &c."

It is further mentioned in this official publication that the question, whether the most-favoured-nation treatment shall be accorded to all goods imported from one of the countries enumerated, or only to products of the soil and industry of such countries, shall depend upon the special conditions laid down either by Treaty or otherwise in the case of each such country or territory. German Colonies and German Protectorates shall be considered as enjoying the most-favoured-nation treatment; but Protectorates of foreign (i.e., non-German) countries shall be excluded from the advantages attaching to the most-favoured-nation treatment granted to such countries by Germany.

2. Though the Treaty of Frankfort only states that the most-favoured-nation treatment shall be accorded to „France" (without mentioning her Colonies and possessions), it is, nevertheless, indisputable that French Colonies and possessions have enjoyed, and still enjoy, most-favoured-nation treatment by Germany. One of the reasons why French „Colonies and possessions" were not specially mentioned in the Treaty of Frankfort was that the trade between them and Germany was (and is still) quite unimportant. During the past three years the German import trade from the French Colonies and possessions viâ Hamburg (which probably represents all but a very small portion of that trade) was as follows:

French Colonies and Possessions.	Value of Imports to Hamburg.		
	1895.	1896.	1897.
	Marks.	Marks.	Marks.
New Caledonia (Cobalt ore)	96,610	108,200	701,470
East Indies (rice, cotton goods, &c.) .	3,050	11,600	753,280
Réunion (geranium oil, &c.).	58,850	Nil	11,450
Guyana (cocoa, &c.)	66,180	155,540	80,000
	224,690	275,340	1,546,200
	£	£	£
Or, in £ sterling. . . .	11,235	13,767	77,310

3. It will have been seen from the wording of the official publication mentioned under (1) that the most-favoured-nation treatment is accorded by Germany also to the Colonies and possessions of the Netherland. The trade between Germany and the Dutch Colonies in the East Jndies, likewise viâ Hamburg, is of some importance. It was as follows during each of the last three years, viz.:

	1895.	1896.	1897.
Imports from Dutch East Indies (coffee, tea, indigo, &c.) to Hamburg . . .	Marks. 4,117,620	Marks. 5,008,310	Marks. 3,662,000
Or, in £ sterling	£ 205,881	£ 250,415	£ 183,100

4. The products (natural and industrial) of Spain and of Spanish Colonies and possessions which, by German Imperial Decree, dated the 25th May, 1894, were subjected to payment of an additional import duty in excess of the „General“ Tariff rates, have, since the 25th July, 1896, been admitted into Germany at the „General“ Tariff rates of import duty.

5. The products of Portugal and of her Colonies and possessions likewise pay the rates fixed by the German General Tariff.

6. With regard to the customs régime between France and her Colonies and possessions (excepting Algeria, which is, in fact, for customs purposes, a part of the Metropolitan country), it may here be stated that the imports from French Colonies and possessions to the Metropolitan conntry are admitted at special preferential rates, and are in many instances altogether exempt from duty, providing that these importations are the produce of such Colonies of possessions, that they are imported direct into France, and that proof be adduced of the French colonial origin.

As regards other points of the customs régime between the mother-country and the Colonies and possessions of France, the latter are, for customs purposes, divided into two groups, viz.:

First Group.—Colonies and possessions having the same Customs Tariff as the Metropolitan country. These are: Guadeloupe and dependencies, Martinique, Guyana, Réunion, French Indo-China, St. Pierre and Miquelon, New Caledonia, Gaboon, Mayotte, Comoro Islands, Madagascar, Diego Suarez, Ste. Marie de Madagascar, and Nossi-Bé.

a) Goods imported from foreign (non-French) countries to the preceding Colonies are subject to the same rates of duty as in France herself; that is to say, such goods are subject to the rates either of the French „Minimum“ or „Maximum“ Tariff, according as one or the other may be accorded to the country of origin of such goods by the Metropolitan Customs Tariff.

b) Goods imported from the French Colonies and possessions into France enjoy a reduction of 50 per cent. for colonial natural products („den-

rées coloniales"), and entire exemption from duty is granted to all other kinds of goods derived from such Colonies and possessions.

Second Group.—This group is formed by the French Colonies and possessions which have their own respective Customs Tariffs. These are: French territories on the West Coast of Africa (excepting Gaboon), viz., Senegal, French Guinea Coast and dependencies, Dahomey and dependencies, Otahiti and dependencies, French possessions in India, Obock.

a) Goods imported into these Colonies, &c., are subject to import duties charged according to Tariffs which are established quite independently of the customs régime in the Metropolitan country.

b) Goods imported into France from this second group of Colonies or possessions are, in principle, subject to the „Minimum" French Metropolitan Tariff, excepting sugar and produts derived therefrom, the importation of which are subject to the same special rates as the importations of sugar, &c., from the first group of French colonial possessions.

[Special rules are, amongst others, laid down in France regarding the duties and exemptions from duties for goods of foreign origin, and for products of the French Colonies and possessions themselves, when the same are imported into one of such Colonies or possessions from another, regarding the interpretation to be given to the term „direct" importation, &c.]

7. It is not possible for me at this moment to give any particulars regarding the customs régime in force between the Netherlands and the Colonial possessions of that country, but it would not be difficult to obtain such information within a short time if desired.

8. The argument used at present in Germany amongst competent persons in defence of the action of the German Government in subjecting Canadian products to the rates of duty of the German General Tariff is (as I understand it) that Canada, having as regards its customs policy taken up the position and responsibilities of an independent State, has now to be treated as such by Germany; that Canada has granted a reduction in the rate of duty to goods imported from the United Kingdom and to certain British Colonies, and that thus Germany is now no longer treated by Canada as „the most favoured nation" in respect of an import Tariff; and that, therefore, Germany finds herself obliged to treat Canada on the same foorting, that is to say, to subject Canadian goods to the German General Tariff rates. The Germans consider that there is little or no analogy between the customs régime prevailing between France and her Colonial possessions and that between the United Kingdom and Canada.

9. I may perhaps remark that the difference between the annual value of German exports to Canada and that of Canadian exports to Germany appears, in so far at least as regards the share of this trade which passes through Hamburg, and which may, I believe, be estimated at about 75 per cent. of the aggregate import and export trade between Canada and Germany, to be growing less marked than it used to be. The following are the statistics for the last three years, viz.:

Value in Sterling of Exports from Hamburg to Canada (British North America).

1895.	1896.	1897.
£	£	£
644,322	397,737	468,007

Value in Sterling of Imports to Hamburg from Canada (British North America).

1895.	1896.	1897.
£	£	£
127,149	279,051	372,929

(Signed) *William Ward,*
Her Majesty's Consul-General.

Hamburg, August 19, 1898.

The Marquess of Salisbury to Sir F. Lascelles.

(Extract.) Foreign Office, September 10, 1898.

Your despatch of the 22nd ultimo, inclosing Mr. Ward's Report on the Customs treatment in Germany of imports from foreign Colonies, was communicated to Mr. Secretary Chamberlain.

Mr. Chamberlain is of opinion that it would be more satisfactory to the High Commissioner for Canada and to the Dominion Government if the substance of Lord Strathcona's letter of the 11th July last were submitted to the German Government.

I have accordingly to request your Excellency to address a communication to the German Government in the sense suggested.

Sir F. Lascelles to the Marquess of Salisbury.—
(Received September 19.)

(Extract.) Berlin, September 16, 1898.

I have the honour to report that I took an opportunity of speaking to Herr von Derenthall this afternoon on the subject of the decision of the German Government to discontinue the most favouredtreatment of imports from Canada.

I told his Excellency that the Canadian Government had been disappointed at learning that the German Government had taken this decision, and that I had been instructed by your Lordship to make a communication to the German Government on the subject.

Her von Derenthall replied that he had not had an opportunity of studying the question very deeply, but that it seemed to him that, as Canada declined to treat Germany on the footing of the most favoured nation, it was only natural that Germany should do the same.

He requested that what he had said might be considered his personal opinion, and as in no way committing the German Government. The Head of the Commercial Department was now absent on leave, but would return in the course of a few days, and he therefore begged me to postpone the communication I had been instructed to make until after his return. To this I consented.

Sir F. Lascelles to the Marquess of Salisbury.—
(Received June 5.)

Berlin, May 30. 1899.

My Lord,

I have the honour to inform your Lordship that the Bill to prolong the Provisional Commercial Arrangement with Great Britain was yesterday delivered to the Reichstag.

The text of the Bill is as follows;—

„We William by the Grace of God, German Emperor, King of Prussia, &c., decree in the name of the Empire, and with the assent of the Bundesrath and the Reichstag, for the period following the 30th July, 1899, what follows: The Bundesrath is authorized to grant to the subjects and products of the United Kingdom of Great Britain and Ireland, as well as to those of British Colonies and foreign possessions, until further notice, the same advantages as are accorded by the Empire to the subjects and products of the most favoured natiou.“

The Bill has not yet been printed for distribution. The „National Zeitung“ is informed that the following passage will be appended to the „Begründung“ or explanatory statement preceding the Bill:—

„As the negotiations for the conclusion of a new Commercial Treaty between the Empire and Great Britain are still proceeding, and it is not to be expected that a difinitive settlement will be reached by the 30th July 1899, it is expedient that the powers of the Bundesrath should be extended beyond that date. The conditions under which the Bundesrath will be able to exercise its power remain the same for the extended period“— that is to say that Germany will grant most-favoured-nation treatment to those British Colonies only which do not differentiate against German commerce to the advantage of the produce of the mother-country.

I have, &c.

(Signed) *Frank C. Lascelles.*

Sir F. Lascelles to the Marquess of Salisbury.—
(Received June 5.)

Berlin, May 30, 1899.

My Lord,

With reference to my immediately preceding despatch of this day's date, I have the honour to report that the evening issue of the „National Zeitung" contains in full, the preamble to the Bill for the provisional commercial agreement with England. It runs as follows:—

„In virtue of the authority granted to it by the Law of the 11th May, 1898, and in accordance with a Notification of the 11th June, 1898, the Bundesrath extended to the subjects and products of the United Kingdom of Great Britain and Ireland as well as to those of her Colonies and foreign possessions, with the exception of Canada, from the 31st July 1898, until further notice, the same advantages as are accorded by the Empire to the subjects and products of the most favoured nation.

„The exclusion of Canada from most-favoured-nation treatment appeared to be necessary for the reason that since the expiry of the Commercial Treaty of the 30th May, 1865, a higher tariff was applied there to German goods than to the products of Great Britain and of several British Colonies, and consequently those conditions. which were specified in the preamble to the Bill of the 21th April, 1898, and by virtue of which the powers conferred by the Law of the 11th May 1898, might be exercised, no longer existed in the case of Canada."

Then follows the passage contained in the final paragraph of my preceding despatch.

It is pointed out by the „National Zeitung„ that under the new Law the powers conferred on the Bundesrath are not confined to a limited period, but are indefinite, and it is assumed by that organ that the change is due to the state of the negotiations with England.

I have, &c.

(Signed) *Frank C. Lascelles.*

Viscount Gough to the Marquess of Salisbury.—
(Received June 22.)

(Extract.) Berlin, June 19, 1899.

I have the honour to report that on the third reading of the Bill respecting the provisional commercial arrangement in the Reichstag to-day, the following amendment was proposed by the National Party:—

„The power to grant most-favoured-nation treatment shall only be applied to those portions of the British Empire which grant most-favoured-nation treatment to Germany."

Count Posadowsky, who had in the course of Saturday's debate explained that the policy of the Imperial Government was based not on reciprocity but on expediency, urged the House to accept the Bill without

the present amendment, especially as the powers were only to be granted for one year. He would prefer that the Bill should be again referred to a Committee rather than that it should pass in the amended form proposed.

The House eventually resolved to refer the Bill with the National Liberal amendment to a Committee.

The Marquess of Salisbury to Viscount Gough.

Foreign Office, June 24, 1899

My Lord,

With reference to Sir F. Lascelles' despatch of the 16th September, 1898, I have been in further communication with the Colonial Office with reference to the decision of the German Government not to grant most-favoured-nation treatment to imports from Canada.

I have to instruct your Lordship to request the German Government to furnish you with a distinct statement of the grounds upon which they claim to distinguish the case of Canada from that of the French Colonies, and also from that formerly occupied by the Spanish and Portuguese Colonies under the Treaties of 1883 and 1872.

The fact that Canada has a larger measure of independence than the French, Spanish, or Portuguese Colonies does not appear to Her Majesty's Government to have any necessary bearing on the matter. These Colonies have, in most instances, like Canada, independent fiscal systems, and the grant by them of perferential treatment to their Metropolitan country appears not to have excluded them from most-favoured-nation treatment in Germany.

I am, &c.

(Signed) *Salisbury.*

Viscount Gough to the Marquess of Salisbury.—
(Received June 26.)

(Extract.) Berlin, June 21, 1899.

With reference to my despatch of the 19th instant, I have the honour to report that the Committee appointed to consider the commercial relations with the British Empire met yesterday.

The National Liberal amendment, adding an explicit reservation to the Bill by which most-favoured-nation treatment may only be granted to such portions of the British Empire as grant the same to Germany was discussed and eventually withdrawn, in view of the satisfactory assurances given by the Representatives of the confederated Governments.

The Bill was accordingly finally passed by the Reichstag to-day by an almost unanimous vote.

Viscount Gough to the Marquess of Salisbury.—
(Received July 3.)

Berlin, June 28, 1899.

My Lord,

I have the honour to transmit herewith copy of the note which I have this day addressed to the Imperial Government, in obedience to the instructions contained in your Lordship's despatch of the 24th instant on the subject of the withdrawal by Germany of most-favoured-nation treatment from imports from the Dominion of Canada.

I have, &c.

(Signed) *Gough.*

Inclosure.

Viscount Gough to Count von Bülow.

Berlin, June 28, 1899.

Your Excellency,

In the preamble to the recent Law prolonging the „Handelsprovisorium" with England, reference is made to the exclusion of Canada from most-favoured-nation treatment, on the ground that, since the expiry of the Commercial Treaty of the 30th May, 1865, higher duties are levied in that Colony on German goods than on goods coming from Great Britain and from several British Colonies.

As your Excellency is aware, Her Majesty's Ambassador had a conversation on this subject with Herr von Derenthal on the 16th September last, and Sir F. Lascelles then mentioned the disappointment felt by the Canadian Government on learning the decision taken by the Imperial Government.

In accordance with instructions which I have received from Her Majesty's Secretary of State foreign Affairs, I have now the honour to request your Excellency to favour me with a statement of the grounds upon which the Imperial Government desire to distinguish the case of Canada from the case of the French Colonies, and also from the position formerly occupied by the Spanish and Portuguese Colonies unter the Treaties of 1883 and 1872.

The fact that Canada has a larger measure of independence than the French, Spanish, or Portuguese Colonies does not appear to Her Majesty's Government to have any necessary bearing on the matter. The Colonies of the countries above mentioned have in most instances, like Canada, independent fiscal systems, and the grant by them of preferential treatment to their Metropolitan country does not appear to have excluded them from most-favoured-nation treatment in Germany.

I have &c.

(Signed) *Gough.*

Viscount Gough to the Marquess of Salisbury.—
(Received July 17.)

Berlin, July 13, 1899.

My Lord,

I have the honour to report that the following Notification appeared in last night's „Imperial Gazette" respecting Germany's commercial relations with the British Empire:

„On the basis of the Law of the 1st July, 1899, the Bundesrath have resolved that the Decree published in the Notification of the 11th June, 1898, by which those advantages are granted to the subjects and products of Great Britain and Ireland, as well as to those of the British Colonies and foreign possessions, with the exception of Canada, which are accorded by the Empire to the subjects and products of the most favoured nation, shall remain in force beyond the 30th July 1899, until further notice."

The above Notification is signed for the Imperial Chancellor by Count Posadowsky and dated the 7th instant. I have, &c.

(Signed) *Gough.*

Sir F. Lascelles to the Marquess of Salisbury.—
(Received August 14.)

Berlin, August 7, 1899.

My Lord,

In his despatch of the 28th ultimo, Her Majesty's Chargé d'Affaires transmitted copy of a note dated the same day, which he had addressed to the Imperial Government in obedience to your Lordship's instructions in which he requested to be furnished with a distinct statement of the grounds upon which Germany claims to distinguish the case of Canada from that of the French, Spanish, and Portuguese Colonies as regards most-favoured-nation treatment.

I have now the honour to transmit translation of the reply of the German Government to the above-mentioned request.

Baron von Richthofen ascribes the most-favoured-nation treatment still enjoyed by French Colonies, and formerly enjoyed by Spanish and Portuguese Colonies, to the requirements of Treaties, and after explaining the position of imports from Dutch and Danish Colonies points out that Germany, in her own Colonies, knows no difference between German and foreign goods. I have, &c.

(Signed) *Frank C. Lascelles.*

Inclosure.

Baron von Richthofen to Sir F. Lascelles.

(Translation.) Foreign Office, Berlin, August 5, 1899.

In reply to Viscount Gough's note of the 28th June last respecting the relations between Germany and Canada, the Undersigned has the

honour to make the following statement to his Excellency Sir Frank Lascelles:

According to the present state of legislation Germany grants most-favoured-nation treatment, on principle, to those States and countries only whose claim thereto is based on Treaties.

An exception to the above principle was made with respect to the British Empire, inasmuch as the power was granted by law to the Federal Council of the German Empire to extend most-favoured-nation treatment autonomously to Great Britain and to all her Colonies and possessions, or to certain of them, for a limited period.

Upon the termination of the Anglo-German Treaty of Commerce of the 30th May, 1865, it was desirable also, in connection with the pending negotiations for a new Treaty, that this exception should be made, in order to contribute so far as possible to the maintenance of the state of things which had existed throughout the long duration of the Treaty of the 30th May, 1865. Under that Treaty as is well known the British Empire enjoyed most-favoured-nation treatment in Germany, granting in return the same treatment to Germany this treatment being granted in the British Colonies and possessions not only as against foreign countries, but also as against the British mother-country.

These relations existing under the Treaty of the 30th May, 1865, were altered by Canada for her part, inasmuch as she has accorded to imports from Great Britain special Customs advantages which she is not prepared to extend to imports from Germany. It naturally resulted from this situation that the Federal Council of the German Empire did not extend to Canada the most-favoured-nation treatment, granted autonomously and as an exception to Great Britain and the British Colonies and possessions. The Federal Council would commit an act in contradiction to the conditions explicitly laid down in the Laws of the 11th May, 1898, and of the 1st July, 1899, were they to continue most-favoured-nation treatment to a British Colony which had, on her side, altered the relations hitherto existing to the detriment of Germany.

As regards the French Colonies, our commercial relations with France and her Colonies are based upon the provisions of Article XI of the Treaty of Frankfort. Similar Treaty provisions were at one time in force with regard to Spain and Portugal. As soon as the Treaties with the latter countries expired their Colonies also ceased to enjoy the most-favoured-nation treatment previously granted to them by Germany. The system by which a foreign country competes on equal terms with the Metropolitan country in the latter's Colonies is in force on an extensive scale. So far as the commercial relations of Germany are concerned, attention may be drawn to the case of the Netherlands, which country, by Article 32 A and B, and further by section 14 of the Final Protocol of the Commercial Treaty of the 31st December, 1851, now in force, grants to German products an equal treatment with those of the Neterland upon importation into the Dutch Colonies, in return for which we grant

most-favoured-nation treatment to the latter in Germany. Our relations with the Colonies of Denmark are of a similar kind. It should also be pointed out that in her own Colonies Germany knows no distinction between German and foreign goods.

If Germany's attitude towards Canada is based, according to the above, upon a foundation of law, it must also appear to be completely justified on grounds of fairness. Canada has deprived Germany of a valuable right, of which we retained possession for more than thirty years under the Anglo-German Commercial Treaty which has come to an end.

It cannot be expected of Germany that upon a change being made by one party in the state of affairs which has hitherto prevailed, she should accept the change without more ado; it is the less to be expected, as it is in the interests of the development of the commerce of the world, and of the mutual relations of trade and navigation between Germany and the British mother-country, that, in the British Colonies, equal treatment should be given to the products of Germany and of Great Britain.

The Undersigned avails, &c.

(Signed) *Richthofen.*

Sir F. Lascelles to the Marquess of Salisbury,—
(Received May 21.)

(Extract.) Berlin, May 18, 1900.

Some days ago I took an opportunity of reminding Count Bülow that the law under which most-favoured-nation treatment was accorded in Germany to te Great Britain and her Colonies, with the exception of Canada, would expire on the 30th July next, and I expressed the hope that the necessary measures would be taken during the present Session of the Reichstag to prolong the term.

Baron von Richthofen informed me this morning that inquiries had been made in the proper quarter, and that he was authorized to inform me that a Bill would very shortly be submitted to the Federal Council and to the Reichstag for a prolongation of the term, and that it was to be anticipated that the Bill would become law.

Sir F. Lascelles to the Marquess of Salisbury.—
(Received May 28.)

Berlin, May 26, 1900.

My Lord,

With reference to my despatch of the 18th instand, I have now the honour to inclose a copy, with translation, of the draft Bill presented yesterday to the Reichstag for prolonging, on the same terms as heretofore, the commercial relations between the German Empire and the British Empire. The Colony of Barbados, will, as well, as the Dominion of Canada, continue to be exempted from the operation of the proposed law.

A copy, with translation, of the introductory statement to the draft Bill is herewith inclosed, in which the reasons for the exclusion of the Colony of Barbados are set out.

I have, &c.

(Signed) *Frank C. Lascelles.*

Inclosure 1.

Draft Bill concerning Commercial Relations with the British Empire.

(Translation.)

We, &c., decree, in the name of the Empire, and after due approval of the Bundesrath and of the Reichstag, as follows:

The Bundesrath is empowered to accord to the subjects and products of the United Kingdom of Great Britain and Ireland, as also to the subjects and products of British Colonies and of foreign possessions, until further notice, those privileges which are granted by the Empire to the subjects and products of the most favoured nation.

Given, &c.

Inclosure 2.

Preliminary Statement to the Draft Bill concerning Commercial Relations with the British Empire.

(Translation.)

BY virtue of the power conferred under the Law of the 1st July, 1899, for the period up to the 30th July, 1900, the Bundesrath, by their Notice of the 7th July, 1899, accorded to the subjects and products of the United Kingdom of Great Britain and Ireland, as also of the British Colonies and foreign possessions, with the exception of Canada, and for the period up to the 30th July, 1900, those privileges which were granted by the Empire to the subjects and products of the most favoured nation.

In the British Colony of Barbados there came into force, on the 26th June, 1899, a new Customs Tariff, according to which products, of the United States of America, of Great Britain and her possessions, and of those foreign countries which grant by Treaty most-favoured-nation treatment to Great Britain, receive favoured Tariff treatment. Under this provision some groods enter free of duty, whereas similar products of other countries other than the above-mentioned are subjected to a duty others again paying a reduced duty. Germany does not share in these privileges. Consequently, Barbados no longer came within the conditions especially laid down in the introductory statement to the Bill of the 21ts April, 1898, under which use could be made of the power conferred by the Law of the 1st July, 1899.

Accordingly, the most-favoured-nation treatment of the products of the Colony of Barbados in Germany ceased under the Notice of the 16th December 1899. As the negotiations which have been commenced for the

conclusion of a new Treaty of Commerce between the German Empire and Great Britain are still in progress, and cannot be completed by the 30th July this year, it becomes advisable to extend the authority of the Bundesrath beyond that date. The conditions under which the Bundesrath can make use of their power remain the same as before for the contemplated prolongation.

Berlin, May 23, 1900.

Sir F. Lascelles to the Marquess of Salisbury.—
(Received June 4.)

Berlin, May 29, 1900.

My Lord,

With reference to my despatch of the 26th instant, I have the honour to forward to your Lordship herewith a Memorandum which I have received from Mr. Gastrell, Commercial Attaché to this Embassy, relating to the debate that took place in the Reichstag on th 26th instant concerning the draft Bill for prolonging most-favoured-nation treatment to the British Empire.

I have, &c.
(Signed) *Frank C. Lascelles.*

Inclosure.

Memorandum by Mr. Gastrell.

On the 26th May the first and second readings of the draft Bill concerning the regulation of the commercial relations between the German and British Empires, and the prolongation of the existing arrangement beyond the 30th July took place in the Reichstag. The text of this Bill, together with a translation of the introductory statement thereto, was forwarded to the Foreign Office in Sir Frank Lascelles' despatch of the 26th instant.

Contrary to the wishes of the Government, power to prolong the Anglo-German Agreement, was not granted to the Bundesrath for an undetermined period, but for the space of one year only. The proposal to consider the Bill at once in the third reading met with considerable opposition, and this had to be deferred till after the reassembling of the Reichstag on the 6th June.

In the course of the debate, Graf von Posadowsky amongst other things, mentioned the following points:

It is of the greatest importance that there should be no disturbance of the favourable international commercial relations now existing between an Germany and England, which must be placed on a clear and permanent basis until the time when the German commercial relations generally with the other great States of the world are regulated afresh. The necessary precedent to this step is the formation of a new Tariff and it will probably be possible to lay before the House next Session the new bases for this Tariff—that is to say, a new Tariff and a new Tariff Law. With

regard to the Colony of Barbados, we could not do otherwise than subject it to the „autonomous“ Tariff; and with reference to the future commercial relations with England and her Colonies this question will have to be thoroughly gone into when a new Commercial Treaty is made with England. This Bill cannot have been unexpected, for the power formerly granted expires at the end of July, so that, unless we wish to put the „autonomous“ Tariff in force against England, a renewal of this power must be asked for. The simple reason for asking that this power be granted „until further notice“ is that the fact of bringing these matters for the same discussion before the House every year is not free from objection. When single British Colonies deviate from the present arrangement and refuse most-favoured-nation treatment, there are only two courses open; either to apply the „autonomous“ Tariff to these single Colonies, or, should a considerable portion of the British Colonial Empire differentiate against Germany as regards other States, to utilize the power granted by applying the „autonomous“ Tariff to the whole of the British dominions in the world („Weltreich“).

Among other imports, some 10,000,000l. worth of agricultural products are brought into Germany, which the representatives of German agricultural interests should particularly notice. There is every inducement for the German Empire to avoid any disturbance of commercial relations with England.

Great importance is attached to the quick passage of this Bill, because of the fact that the commercial community considers it a great advantage to know as long as possible beforehand what the future relations are to be. Already new arrangements and calculations have to be made for future importations from England and her Colonies.

(Signed) *William S. H. Gastrell.*

Berlin, May 28, 1900.

Sir F. Lascelles to the Marquess of Salisbury.—Received Juni 18.)

Berlin, June 13, 1900.

My Lord,

With reference to my despatches of the 26th and 29th ultimo, I have the honour to report that the third reading of the Bill to prolong for one year, from the 30th July next, the existing provisional arrangement regulating the commercial relations between the German and British Empires was yesterday passed by an almost unanimous vote of the House.

A proposal supported by all sections of the Reichstag, with the exception of the Social Democrats, to prolong the arrangement until the 31st December, 1903, was withdrawn at the last moment in consideration of the state of public business, the closing of the Session having been fixed for yesterday evening.

I have, &c.

(Signed) *Frank C. Lascelles.*

The Marquess of Salisbury to Viscount Gough.

Foreign Office, June 21, 1900.

My Lord,

With reference to Sir F. Lascelles' despatch of the 26th ultimo, I transmit to your Lordship herewith copy of a letter from the Colonial Office relative to the exclusion of Barbados from the benefits of the most-favoured-nation treatment in the German Empire.

I request that your Lordship will communicate to the German Government the papers inclosed in the letter from the Colonial Office.

I am, &c.

(Signed) *Salisbury.*

Colonial Office to Foreign Office.

(Extract.) Downing Street, June 16, 1900.

With reference to the exclusion of Barbados from the benefits of the most-favoured-nation treatment in the German Empire, I am to transmit to you a copy of the Barbados Act No. 18 of 1900, and to request that, if Lord Salisbury sees no objection, it may be explained to the German Government that the special Tariff under which German products were subjected to higher duties on entry into Barbados than the products of certain other nations is not now in force, and will not come into operation until the 31st December next, unless the Convention for reciprocal Tariff concessions between the United States of America and Barbados is ratified before that date.

I am also to inclose, for communication to the German Government, a copy of the Table of import duties at present in force in Barbados.

Viscount Gough to the Marquess of Salisbury.—(Received July 9.)

Berlin, July 4, 1900.

My Lord,

With reference to Sir F. Lascelles' despatch of the 13th ultimo, I have the honour to transmit herewith copy and translation of the Law which empowers the Federal Council to grant, from the 30th July, 1900, to the 30th July, 1901, the most-favoured-nation treatment to the subjects and products of the United Kingdom of Great Britain and Ireland, and of British Colonies and foreign possessions. I have, &c.

(Signed) *Gough.*

Inclosure.

Law respecting the Commercial Relations with the British Empire, June 30, 1900.

(Translation.)

We, William, by the grace of God German Emperor, King of Prussia, decree in the name of the Empire, with the assent of the Federal Council and the Imperial Diet, for the period after the 30th July, 1900, what follows:

The Federal Council is empowered to grant to the subjects and products of the United Kingdom of Great Britain and Ireland, as also to the subjects and products of British Colonies and foreign possessions until the 30th July, 1901, the same advantages as are accorded by the Empire to the subjects and products of the most favoured nation.

Given under our Imperial hand and seal.

(L.S.) (Signed) *William.*

(Signed) Count *Posadowsky.*

Travemünde, June 30, 1900.

Viscount Gough to the Marquess of Salisbury.—(Received July 26.)

(Telegraphic). Berlin, July 26, 1900.

Notice issued last night by Chancellor granting most-favoured-nation treatment to subjects and products of United Kingdom and to British Colonies and foreign possessions, with exception of Canada and Barbados, beyond 30th July, and until further notice.

Viscount Gough to the Marquess of Salisbury.—(Received July 28.)

Berlin, July 26, 1900.

My Lord,

With reference to my despatch of the 4th instant, I have now the honour to report that the Imperial Chancellor issued a Notice last night, of which a copy with translation is herewith inclosed, granting most-favoured-nation treatment beyond the 30th instant and „until further notice" to the subjects and products of the United Kingdom, as also to those of all British Colonies and foreign possessions, with the exception of Canada and Barbados.

Your Lordship will observe that the terms of this Notice still exclude Barbados from the benefits of most-favoured-nation treatment, in spite of the special Tariff, under which German products were there subjected to higher duties on entry than the products of certain other nations, would not come into force until the 31st December next, unless the Convention for reciprocal tariff Concessions between the United States and Barbados is ratified before that date.

I have the honour to transmit a copy of the note on this subject which I addressed to the German Government on the 23rd ultimo.

I have, &c.

(Signed) *Gough.*

Inclosure. 1.

Notice concerning the Commercial Relations with the British Empire.

(Translation.)

By virtue of the Law, dated the 30th June, 1900, dealing with the commercial relations with the British Empire, the Bundesrath has decided

that, as provided for by the Notices of the 11th June, 1898, and by that of the 16th December, 1899, the Decree, by which there were granted to the subjects and products of the United Kingdom of Great Britain and Ireland, as also to those of the British Colonies and foreign possessions, with the exception of Canada and Barbados, those privileges which are conferred on the subjects and products of the most favoured nation, shall remain in force beyond the 30th July, 1900, until further notice.

The Imperial Chancellor,
(Signed) *Fürst zu Hohenlohe.*

Berlin, July, 23, 1900.

Inclosure 2.

Viscount Gough to Count von Bülow.

Berlin, June 23, 1900.

Your Excellency,

I have been instructed by my Government to communicate to the Imperial German Government the inclosed copy of the Barbados Act No. 18 of the 15th May, 1900, as also a copy of the Table of Import Duties at present in force in Barbados.

Your Excellency will perceive that, by Articles 5 and 9 of the above Act, the special Tariff, under which German products were subjected to higher duties on entry into Barbados than the products of certain other nations, is not now in force, and will not come into operation until the 31st December next, unless the Convention for reciprocal tariff Concessions between the United States of America and Barbados is ratified before that date.

I avail, &c.
(Signed) *Gough.*

Sir F. Lascelles to the Marquess of Landsdowne.—(Received June 6.)

Berlin, June 4, 1901.

My Lord,

I have the honour to forward herewith translation of the Law which I have received from Mr. Gastrell, Commercial Attaché to this Embassy, relating to the power given to the Bundesrath to prolong most-favoured-nation treatment to the British Empire until 31st December 1903,

I have, &c.
(Signed) *Frank C. Lascelles.*

Inclosure.

Imperial Laws.—Sheet No. 20.

No. 2765.—Law relating to Commercial Relations with the British Empire of the 29th May, 1901.

(Translation.)

We, William, by the grace of God German Emperor, King of Prussia, &c., ordain the following in the name of the Empire, with the assent of the Bundesrath and of the Reichstag, for the period beginning on the 30th July.

The Bundesrath is authorized to grant to the nationals and products of the United Kingdom of Great Britain and Ireland, as well as to those of British Colonies and foreign possessions, until the 31st December, 1903, the advantages conceded by the Empire to the nationals and products of the most-favoured-nation country.

Given at Berlin, under our own hand and seal, at the Schloss, 29th May, 1901.

(L.S.) *Wilhelm.*

(Signed) Count von *Posadowsky.*

Published at Berlin, June 1, 1901.

Sir F. Lascelles to the Marquess of Lansdowne.—(Received June 17.)

Berlin, June 13, 1901.

My Lord,

With reference to my despatch of the 4th instant, I have the honour to transmit copy and translation of an official Notification according the most-favoured-nation treatment to British and Colonial products, with the exception of those from Canada, until further notice.

I have, &c.

(Signed) *Frank C. Lascelles.*

Inclosure.

No. 2773.—Notification respecting the Commercial Relations with the British Empire, dated June 11, 1901.

(Translation.)

In virtue of the Law respecting the commercial relations with the British Empire, dated the 29th May, 1901, the Council of the Empire has determined, for the period after the 30th July, 1901, to accord until further notice to subjects and products of the United Kingdom of Great Britain and Ireland, as well as to those of British Colonies and foreign possessions, with the exception of Canada, the same privileges as are granted to the subjects and products of the most favoured nation.

The representative of the Chancellor,

(Signed) Count von *Posadowsky.*

Berlin, June 11, 1901.

The Marquess of Lansdowne to Sir F. Lascelles.

Foreign Office, March 18, 1903.

Sir,

I Request that your Excellency will endeavour to ascertain what steps, if any, are being taken by the German Government with regard to the Law empowering them to give most-favoured-nation treatment to this

country after the 31st December next, on which date, as you will remember, the arrangements made under the Law of the 29th May, 1901, come to an end.

I am, &c.

(Signed) *Lansdowne.*

Sir F. Lascelles to the Marquess of Lansdowne.—(Received March 29.)

Berlin, March 27, 1903,

My Lord,

With reference to your despatch of the 18th instant, I have the honour to report that I called upon Baron von Richthofen on the 24th instant, and informed him that I had received your Lordship's instructions to ascertain what steps were being taken by the German Government with regard to the Law empowering them to give most-favoured-nation treatment to England after the 31st December next. I added that I had requested Mr. Gastrell to see Dr. von Koerner, the Head of the Commercial Department in the Ministery for Foreign Affairs, and to ask him how the matter stood.

Dr. von Koerner had replied that he doubted whether the question could be submitted to the Reichstag during the present Session, which was now drawing to a close, as it might lead to a discussion on the subject of the Commercial Treaties in general, which it would be advisable to postpone until the new Reichstag should have assembled, but he would make inquiries, and let Mr. Gastrell know the result.

I told Baron von Richthofen that personally I did not feel any great apprehension, for it appeared to me that the withdrawal of the most-favoured-nation treatment would be very detrimental to the commercial interests of Germany, but that in order to avoid the inconvenience to commerce which uncertainty might cause, it might be advisable to obtain the sanction of the Reichstag at once to its prolongation.

Baron von Richthofen said that a discussion on the question of Commercial Treaties would certainly not be desirable at present. The elections were to take place in June, and the new Reichstag would perhaps meet in October. The question of the Commercial Treaties would then be discussed by them, and that might be the best opportunity for obtaining the prolongation of most-favoured-nation treatment to England.

On my return to the Embassy after this conversation, Mr. Gastrell informed me that Dr. von Koerner had asked him to call upon him in the course of the afternoon, and had expressed the wish to be furnished with an official application for the information which your Lordship had instructed me to obtain.

I, therefore, adressed to Baron von Richthofen the note of which I have the honour to inclose a copy, and later in the evening I took the opportunity of his Excellency's presence at a party at the Embassy to inform him that I had done so.

I have, &c.

(Signed) *Frank C. Lascelles.*

Inclosure.

Sir F. Lascelles to Baron von Richthofen.

Berlin, March 25, 1903.

Your Excellency,

I have received a despatch from the Marquess of Lansdowne, in which his Lordship instructs me to endeavour to ascertain what steps, if any, are being taken by the Imperial Government with regard to the Law empowering them to give most-favoured-nation treatment to Great Britain and Ireland, her Colonies and foreign possessions (with the exception of Canada) after the 31st December next, on which date, as your Excellency is aware, the arrangements made under the Law of the 29th May, 1901, come to an end.

I shall be much obliged if your Excellency will be good enough to supply me with any available information as to the intentions of the Government in regard to Anglo-German commercial arrangements after the expiration of this year.

I avail, &c.
(Signed) *Frank C. Lascelles.*

The Marquess of Lansdowne to Sir F. Lascelles.

Foreign Office, April 2, 1903.

Sir,

I have received your Excellency's despatch of the 27th ultimo, forwarding copy of a note which you have addressed to Baron von Richthofen on the subject of the grant by Germany of most-favoured-nation treatment to Great Britain and Ireland.

It would be of advantage if you could ascertain whenever an opportunity for doing so may occur, whether Germany intends to continue to deny the same treatment to Canada.

I am, &c.
(Signed) *Lansdowne.*

Sir F. Lascelles to the Marquess of Lansdowne.—
(Received April 18.)

(Extract.) Berlin, April 16, 1903.

I asked Baron von Richthofen how matters stood with regard to the conclusion of a new Commercial Treaty between Great Britain and Germany. His Excellency replied that as regards Great Britain, he was convinced that there would be no difficulty in coming to a satisfactory arrangement. The most-favoured-nation treatment would, he thought, certainly be prolonged, but as the South African Colonies had decided to give preferential treatment to English goods, it was now to be considered whether they as well as Canada should not be excepted from such treat-

ment, a situation would be created which would increase the difficulty for the German Government to obtain the consent of the Reichstag to the conclusion of a Commercial Treaty between our two countries.

Sir F. Lascelles to the Marquess of Lansdowne.—
(Received April 18.)

(Telegraphic.) Berlin, April 18, 1903.

I have received a note from Baron von Richthofen, stating that the German Government intend at the proper time to bring about the prolongation of the Law by which the Bundesrath is empowered to grant most-favoured-nation treatment to Great Britain and the British Colonies and possessions.

It appears doubtful, however, if the intention of the German Government can be realized in view of the opposition to be expected in the Reichstag if German goods are differentiated against in important parts of the British Empire, and the report is confirmed that they will be treated less favourably than British goods in British South Africa as well as in Canada.

Sir F. Lascelles to the Marquess of Lansdowne.—
(Received April 20.)

Berlin, April 18, 1903.

My Lord,

I have the honour to transmit herewith copy and translation of a note which I have received from Baron von Richthofen, and substance of which I have telegraphed to your Lordship to-day, containing the reply to the note which I addressed to his Excellency respecting Anglo-German commercial arrangements, in accordance with the instructions contained in your Lordship's despatch of the 18th utlimo.

I have, &c.
(Signed) *Frank C. Lascelles.*

Inclosure.

Baron von Richthofen to Sir F. Lascelles.

(Translation.) Berlin, April 15, 1903.

The Undersigned has the honour to reply to Sir Frank Lascelles' communication of the 25th March, that the Imperial Government on their part intend to bring about at the proper time a prolongation of the Law by which the Bundesrath is empowered to grant most-favoured-nation treatment to Great Britain and Ireland as well as to the British Colonies and possessions.

The Imperial Government think, however, that they should not conceal the fact that it appears doubtful, especially having regard to the

opposition to be expected in the Reichstag, whether this intention can be realized if Germany is differentiated against in Important parts of the British Empire, and if, in particular, the report is confirmed that German goods will in the future be less favourably treated than British not only in Canada, but also in British South Africa.

The Undersigned avails himself, &c.

(Signed) *Richthofen.*

Sir F. Lascelles to the Marquess of Lansdowne.—
(Received April 25.)

Berlin April 23, 1903.

My Lord,

With reference to my despatch of the 18th instant, I have the honour to report that in an interview with Baron von Richthofen on the 21st instant I told his Excellency that I had communicated to your Lordship by telegraph the substance of his note of the 15th instant, stating that the German Government proposed in due course to propose to the Reichstag the prolongation of the Law empowering the Bundesrath to extend to Great Britain and her Colonies most-favoured-nation treatment after the end of 1903, but expressing a doubt whether this would be possible in view of the opposition which might be expected in the Reichstag in consequence of the recent action of the CanadianGovernment in penalizing German goods, and the reported intention of the South African Colonies to treat the produce of the mother-country more favourably than the produce of other countries.

Baron von Richthofen said that it was the action of Canada in giving preferential treatment to Great Britain that had brought about the denunciation of the Treaty of Commerce, and if other British Colonies followed her example, and large portions of the British Empire were to give preferential treatment to Great Britain, it would be very difficult to obtain the consent of the Reichstag to the prolongation of most-favoured-nation treatment to Great Britain herself. His Excellency added that the competent authorities were now considering what measures should be taken in consequence of the Canadian Government.

I said that the commercial relations of our two countries were so large that anything in the nature of a Customs war would do incalculable harm to both, an opinion fully shared by his Excellency but that I fully believed that is any serious damage were done to British trade by the non-prolongation of most-favoured-nation treatment, the outcry in England would be so great that His Majesty's Government would be forced, however unwillingly, to take retaliatory measures.

I have, &c.

(Signed) *Frank C. Lascelles.*

The Marquess of Lansdowne to Mr. Buchanan.

Foreign Office, June 20, 1903.

Sir,

His Majesty's Government have had under their careful consideration Sir F. Lascelles' despatches of the 18th and 23rd April last relating to commercial relations with the German Government, and more especially to commercial relations between the German Empire and Canada.

It will be as well before informing you of the views of His Majesty's Government on the subject that I should briefly recapitulate the circumstances which have brought about the present position of affairs.

Under „The Customs Tariff of 1897," Canada offered preferential Tariff advantages to any country fulfilling certain conditions of reciprocity, and as the United Kingdom already fulfilled these conditions, British goods received the benefit of the reduced Tariff. But by the Treaty of 1865 between Great Britain and the German Zollverein, German goods were entitled to the same treatment in British Colonies as British goods, and the German Government having made a claim to this effect, the Canadian Government asked that they might be freed from these stipulations. The Treaty was accordingly denounced by His Majesty's Government on the 30th July, 1897, and expired on the 30th July 1898.

Early in 1898 „The Canadian Tariff Act" was amended, and after the 1th August of that year preferential treatment in Canada was expressly confined to Great Britain and to certain British Colonies, the ordinary Canadian Tariff being applied impartially to all foreign countries.

On the 11th June, 1898, the German Federal Council sanctioned the proposal to continue most-favoured-nation treatment to Great Britain and her Colonies and Possessions—Canada alone excepted.

The Canadian Government, upon this, called the attention of His Majesty's Government to the action of the Federal Council, and a letter was addressed by Lord Strathcona, High Commissioner for Canada, to the Colonial Office, protesting against the treatment to which the Dominion was subjected. It was pointed out that Canada was extending to Germany the same privileges as those accorded by the Dominion to other foreign Powers, and would on her part be gratified to continue this policy. In these circumstances, the Dominion Government expressed the hope that the German Government would find it possible to alter their decision.

This letter was forwarded to Sir F. Lascelles, who made a verbal communication to the German Government as to the manner in which their action was viewed by the Canadian Government.

On the 28th June, 1899, the attention of the German Government was recalled to the matter by Viscount Gough. In accordance with instructions, his Lordship asked for a statement of the grounds upon with the German Government desired to distinguish the case of Canada from the case of the French Colonies, which were in the habit of discriminating in their Tariffs in favour of imports from the mother country, and also

from that of the Portuguese and Spanish Colonies which, under the Treaties of 1872 and 1883, exercised a similar power. Lord Gough stated that the fact that Canada had a larger share of independence than these Colonies did not appear to have any bearing on the matter.

Baron von Richthofen replied, in a note dated the 5th August, 1899, that the action of the German Government was based on grounds of fairness, inasmuch as Canada had deprived Germany of a valuable right which she had enjoyed for more than thirty years.

In the autumn of 1901, the Canadian Government came to the conclusion that as the diplomatic negotiations which had been conducted through this Office had not proved successful, it would be well to discuss the subject with M. Bopp, the German Consul at Montreal. These efforts to bring about a better understanding with Germany unfortunately also failed.

After having patiently waited for five years in the hope of coming to an arrangement with Germany, the Canadian Government decided, in April, 1903, that they could no longer allow the matter to remain on a footing so detrimental to Canadian interests. A clause was accordingly inserted in the Canadian Tariff to the effect that when any foreign country treated imports from Canada on less favourable terms than imports from other countries, a surtax amounting to one-third of the duty according to the general Tariff might be imposed. This clause was general in its terms, and applicable to the goods of any country whicht might treat Canadian products unfavourably. It was applied immediately, in the caso and took effect on the 16th of that month except as regards goods purchased before the 17th April. In the case of such goods it is to apply from the 1st October next.

Sir F. Lascelles, in his despatch of the 16th April last, reported that Baron von Richthofen had informed him that most-favoured-nation treatment would, he thought, certainly be continued to the United Kingdom but that as the South African Colonies had decided to give a Tariff preference to English goods, it was now matter for consideration whether they as well as Canada should not be excepted from such treatment; and that if Australia should also give the mother country a Tariff preference, a situation would be created which would render it very difficult for the German Government to obtain the consent of the Reichstag to the conclusion of a Commercial Treaty between the United Kingdom and Germany.

During Sir F. Lascelles' conversation with Baron von Richthofen of the 21st April last, his Excellency stated that if the example of Canada in giving a Tariff preference to the United Kingdom were followed by other British Colonies so as to cover large portions of the British Empire, there would be great difficulty in obtaining the consent of the Reichstag to a continuation of most-favoured-nation treatment for this country; and he further informed His Majesty's Ambassador that the competent authorities were considering what measures should be taken in consequence of the recent action of Canada, to which I referred.

This communication hat greatly increased the difficulty of the situation, and I have now to give you the following instructions as to the language which you should hold with regard to this most important question. You should, in the first place, remind the German Government that the Treaty of 1865 between the United Kingdom and Germany was terminated by His Majesty's Government, in order that this country and her Colonies might be at liberty to make such arrangements as might be considered desirable in respect of their mutual trade. To this policy His Majesty's Government adhere.

As regards Canada the action of the Dominion, as I have shown, was taken only after every effort had been made to secure fair treatment for Canadian produce in Germany. It was only after these efforts had failed, and Germany had persistently refused to accord to Canadian produce the same most-favoured-nation treatment that Canada accorded to German produce, that Canada was driven in self-defence to measures of retaliation. If Germany will restore Canadian produce to the most-favoured-nation terms, His Majesty's Government have not the least doubt that the increased duties which have just been imposed on German goods will be at once removed.

Should the German Government, however, persist in the attitude which they have taken up on this matter, and, further, extend to the products of other British Colonies, and even to those of the United Kingdom, whose Tariff is at the present moment based upon the most liberal principles, the discrimination which they have enforced against Canada, a very wide and serious issue must inevitably be raised involving the fiscal relations of this country and the German Empire.

I am, &c.

(Signed) *Lansdowne.*

Baron von Richthofen to Count Metternich.—(Communicated by Count Metternich, July 1.)

(Translation.) Berlin, June 27, 1903.

Mr. Buchanan, His Britannic Majesty's Chargé d'Affaires, handed in on the 23rd instant a copy of the instructions addressed by Lord Lansdowne to the British Embassy here in regard to the commercial relations between Germany and Canada. I have the following observations to offer on these instructions. At the same time, I venture to hope that an explanation of the German standpoint in the matter will contribute to the removal of the erroneous ideas which, to all appearance, are very prevalent in England on the subject of the grounds and justification of the German attitude.

Up to the 30th July, 1898, the commercial relations between Germany on the one hand and Great Britain and her Colonies on the other were regulated by the Anglo-German Commercial Treaty of the 30th May, 1865.

This Treaty secured to each of the two Parties most-favoured-nation treatment in the territory of the other Party, and secured, indeed, to Germany most-favoured-nation treatment in the English Colonies, even as against Great Britain, the mother country. When the Commercial Treaty had expired in consequence of its denunciation by Great Britain, she and her Colonies lost the right in virtue of which the grant had been made to them of the reduced scale of duties iucluded by Germany in her Tariff Treaties with other States. In Germany there are, as is well known, two Tariffs: the General Customs Tariff, which, by law, is applied to all those countries with which no Agreements to the contrary are in force; and the so-called Conventional Tariff, which comes into force when Treaty arrangements on the subject are made, and which is purchased by concessions on the part of the various Treaty States, consisting especially in the modification of numerous items in their own autonomous Tariffs. Consequently, after the Anglo-German Commercial Treaty had ceased to be valid, the provisions of the autonomous German Customs Tariff had to be applied to Great Britain and her Colonies. It required a special Act of the German Legislature to make an exception to the rule in question, since, firstly, in virtue of the Law of the 11th May, 1898, and of subsequent Laws, and lastly, in virtue of the Law of the 29th May, 1901, Great Britain and her Colonies, with the exception of Canada and, for a time, Barbados, were accorded, up to the 31st December, 1901, the lower Customs rates. This procedure shows a special desire on the part of Germany to meet the wishes of Great Britain, for which there is no example in German legislation either before or since. It was caused by the wish of the Imperial Government to make their commercial relations with Great Britain and her Colonies as friendly as possible, even after the expiry of the Commercial Treaty; the justification for it could, however, only be found in the fact that the expiry of the Commercial Treaty brought about no alteration in Customs Tariffs affecting imports from Germany into Great Britain and her Colonies except Canada, and, temporarily, Barbados, and that is was, therefore, fair to maintain in Germany, as regards those territories, the state of things which had actually existed hitherto. The condition mentioned did not affect Canada, because, after the expiry of the Commercial Treaty, preferential duties in favour of the mother country were put in force there, from which imports from Germany were excluded, and because the latter were subsequently also denied those privileges which Canada, by the Commercial Agreement with France of the 6th February, 1893, had granted to certain French products. There force, the exception made by Germany could not be extended to Canada.

The application of the German General Tariff to Canada entails, therefore, no unjustifiable discrimination, still less any penalizing of that Colony, as has often been asserted; the measure is merely a consequence of the expiry of the Anglo-German Commercial Treaty, and is necessitated by German law. No penal measures or additional duties have so far, and this must be expressly emphasized, been applied by Germany to Canada.

Moreover, there is in the German procedure—for we wish also to correct this supposition, which has been often repeated—no interference in the relations between mother country and Colony. After the expiry of the Anglo-German Commercial Treaty, Germany could only choose whether she would apply her General Tariff to Great Britain and all her Colonies, as according to German law would have been necessary in the ordinary course, or whether she would limit the application of the General Tariff to those parts of the Britisch Empire in which there had been an alteration of the status quo affecting imports from Germany. The choice of the latter alternative, which is much more favourable to Great Britain and her Colonies, is considered by Germany to be requisite in the interests of mutual commercial policy, and to be practically justified because Great Britain had declared on the most diverse occasions that her Colonies formed independent territories for customs purposes, and were independent as regards their decisions respecting the regulation of their relations with foreign countries. The wish to realize this idea was not only the reason and object of the denunciation of the Anglo-German Commercial Treaty, but also came serveral times to the fore during the consequent negotiations for the renewal of that Treaty, and latterly, at the Brussels Sugar Conference, found very notable expression in the independent attitude as regards the Convention which England strove to reserve for her autonomous Colonies, by making their accession or non-accession to it perfectly free, and thus establishing for the other States parties to it the possibility of differential treatment for the various parts of the British Empire. The same idea is apparent in the instructions communicated to us, for the reason there given for the denunciation of the Anglo-German Commercial Treaty is „that this country and her Colonies might be at liberty to make such arrangements as might be considered desirable in respect of their mutual trade.“

If the English Colonies are to be in a position to follow out their own customs policy, other countries must be allowed to treat them as separate customs territories.

The circumstances which led in Germany to the special treatment of Canada have repeatedly been stated by Germany, and have also been appreciated by the Canadian Government. The Canadian Minister of Finance, Mr. Fielding, expressed himself last year in the Budget debate, according to the shorthand report, as follows:

„As I have pointed out on a previous occasion, Germany has two Tariffs—one for the world generally, the other, known as the Conventional Tariff, for those countries which have Commercial Treaties with Germany. I suppose many honourable gentlemen will say that this is sound policy. Germany had a Treaty with Canada, or Canada participated in an Imperial Treaty with Germany; and under that Treaty Canada had the advantage from what is called the Conventional Tariff as respects Canadian products. Canada put an end to that Treaty for her own purposes for good and sufficient reasons. Not one party in Canada, but all of Canada, reached

the conclusion that this Treaty was not in the best interest of Canada, or of the Empire and it should come to an end. Our sister Colonies took the same view on the subject; but it was admittedly the action of Canada above all others which brought about the denunciation of the German and Belgian Treaties. When we ceased to have that Treaty with Germany, when we ceased to extend to Germany many certain privileges which she had enjoyed, Germany withdrew from us the privileges of its Conventional Tariff. Canada thus came into the class of non-Treaty countries, the products of which were subject to the higher Tariff. Let us not deny that from one point of view there was some colour of excuse for the German action."

The Imperial Government were naturally all the more surprised when the same Canadian Minister of Finance, in this year's Budget debate, after Canadian products had been liable in Germany for nearly five years to the provisions of the autonomous Tariff, notified the imposition of extra duties on those imports from Germany into Canada which were liable to duty.

If one examines what has been done by England and Canada—who were responsible for the denunciation of the Anglo-German Commercial Treaty, for the differential treatment of German imports into Canada, and, lately, for the imposition of extra duties on German goods—to remove the existing cause of dispute, the position, from the German point of view, is as follows:

The only official correspondence in writing which has passed on the subject between the Imperial and British Governments consists of the notes of the 28th June and the 5th August, 1899, mentioned in the instructions. In the former note the English Government inquired why Germany treated Canada differently to the French, Spanish and Portuguese Colonies. In reply, the German Government explained, in the latter note that Germany was bound, as regards the French Colonies, by Article 11 of the Peace of Frankfurt, while they had only accorded most-favoured-nation treatment in Germany to the Spanish and Portuguese Colonies, so long as to that effect Treaties existed with Spain and Portugal. Further, the note stated in detail the grounds which governed the German attitude. England never refuted or even replied to these arguments.

In November 1901 the Canadian Premier Minister of Finance, and Minister of Customs invited the Imperial Consul at Montreal to a confidential discussion at Ottava as to the possible preparation of an Agreement with Germany. In the course of this discussion, the Canadiau Government demanded the grant of all the modifications of the German Conventional Tariff, and were only willing to give in return the few modifications of duties agreed on in the Franco-Canadian Commercial Treaty, which are of trifling importance for Germany, who only exports such goods to Canada in extremely small quantities.

Any further compromise was refused by Canada, and Germany was even denied the concession which Canada had made without hesitation in

the Treaties with France and other nations, namely, general most-favoured-nation treatment as compared with third States, but which Canada in her relations with Germany claimed as a matter of course. Although in such an Agreement all the advantages were on the side of Canada and the sacrifices on the side of Germany, the Imperial Government did not break off the negotiations as hopeless, but as the new German Customs Tariff as at that time under discussion in the Bundesrath and Reichstag confined herself to pointing out that the position of affairs thus created made it impossible for Germany to preceed to the conclusion of a new Commercial Agreement, even if only intended to be provisional.

The conversations with Sir Frank Lascelles in April last, mentioned in the instructions, were subsequent to the decision of the Canadian Government to make reprisals against Germany, and subsequent to the order for these reprisals. If at that time it was confidentially mentioned that the German Reichstag might, in case of further injury to imports from Germany by the British Colonies, refuse to give, after the 31st December next, to Great Britain and her Colonies, or to one or more of those Colonies, the rates of the German Conventional Tariff, the reason is that the Imperial Government, especially the last time, when the Law of the 29th May, 1901, was promulgated, had to overcome great difficulties before even obtaining the consent of the Reichstag. That consent, however, is, as an Imperial law is in question, absolutely necessary under the Constitution of the Empire.

These explanations show that, in our opinion, the English view of what has passed, is based in many respects on incorrect assumptions, and the responsibility for the initiation and the aggravation of the conflict, cannot properly be laid on Germany.

But even if, after this, the theoretical points of view of the parties remain opposed to each other, an attempt ought still to be made to arrive at a practical solution of the existing differences of opinion.

Guided by these views, the Imperial Government declare themselves quite ready to enter on an exchange of ideas in regard to a method of obviating the present difference, and leave it to His Majesty's Government, in case of an understanding on the point, to make suitable proposals with this object.

I request your Excellency to express yourself to the Government in London in accordance with the foregoing explanations. At the same time your Excellency is authorized to give them a copy of this letter.

For the Imperial Chancellor

(Signed) *Richthofen.*

The Marquess of Lansdowne to Mr. Buchanan.

Foreign Office, July 8, 1903.

Sir,

The German Ambassador left with me an the 1st instant a copy of the note addressed to him on the 27th ultimo by Baron von Richthofen respecting the commercial relations between Canada and Germany.

His Majesty's Government fully appreciate the friendly tone in which the note is couched, as well as the desire expressed in it to arrive at a practical solution of the question at issue between the two countries.

That desire is shared by His Majesty's Government, and it is only with the object of removing misapprehensions that they offer the following comments upon Baron von Richthofen's statements:

They observe that the exclusion of Canada from most-favoured-nation treatment in Germany is represented as the natural and inevitable consequence of the denunciation of the Commercial Treaty of 1865, and complaint is apparently made of His Majesty's Government for having suggested that this exclusion was to be regarded as a punitive measure, or as an undue attempt by Germany to interfere in the relations of the mother country with her Colonies.

His Majesty's Government desire that it should be clearly understood that they have no intention to call in question the motives of the German Government. His Majesty's Government are, indeed, in no wise, concerned with those motives but only with the action of Germany and its consequences to the different parts of the British Empire.

That action has incontestably had the effect of bringing about the loss by Canada of the relatively advantageous position which she occupied prior to 1897, as loss which she has sustained not because she had imposed upon German imports customs duties exceeding those to which they were previously subject nor because she had treated Germany differently from other foreign countries with which she had commercial relations, but because Canada had refused to extend to Germany a special concession made by her to the mother country, in pursuance of a policy deliberately adopted for the purpose of promoting the national trade of the British Empire. It is not disputed that Germany has the right to regard this question from her own point of view, and to deal with it in whatever manner may best suit her interests. There remains, however, the fact that in the result a British Colony has been made to suffer not for discriminating against Germany in favour of other foreign countries, but for according preferential treatment to the imports of the mother country. It was in reply to this action on the part of Germany that, in April 1903, the Canadian Government imposed upon German imports the additional taxation to which reference is made in the German note.

With reference to the statement made hy Baron von Richthofen that German imports were denied in Canada the privileges granted by the latter to certain French products under the Commercial Agreement between Canada and France of the 6th February, 1893, His Majesty's Government

desire to point out that Canada at first extended those advantages to German goods, and only withdrew them after Germany had refused to continue to her the treatment of the most favoured nation.

The importance of the question already one of the utmost moment to Great Britain and her Colonies, was greatly increased by the intimation contained in Baron von Richthofen's note of the 15th April last, inclosed in Sir F. Lascelles despatch of the 18th April.

Baron von Richthofen apparently desires to treat this intimation, which he describes as having been confidentially made to Sir F. Lascelles as an obiter dictum of no great importance. It was, however, impossible for His Majesty's Government so to regard it.

The announcement made in Baron von Richthofen's note, which was not marked Confidential, and was of the most authoritative character, seemed to them at the time and still seems to them capable of no other interpertation than this: that if other British self-governing Colonies should follow the example of Canada and accord national treatment to British imports, the German Government might find themselves compelled to refuse not only to those Colonies but to Great Britain herself the treatment which, in view of the liberal terms upon which German imports are admitted to this country, we are entitled to expect upon the most ordinary grounds of reciprocity.

Whether such a refusal were to be the result of a policy recommended to the Reichstag by the German Government, or were to be imposed upon the German Government, by the Reichstag, would, so far as British interests are concerned, be immaterial. Baron von Richthofen's intimation was regarded by His Majesty's Government as not lightly given and not to be lightly received.

Such retaliation on the part of the German Government would, in our opinion, not be justifiable in itself, and would be inconsistent with the attitude which, as we understand Baron von Richthofen's argument, the German Government desire to assume towards the British self-governing Colonies. If it be true, as stated in the note, that those Colonies are regarded by the German Government as „independent customs districts" which foreign Powers are at liberty to treat as such, it would follow that no responsibility would attach to the mother country for their external Tariff arrangements, and that it would be wholly inequitable and illogical to retaliate upon the mother country in consequence of the manner in which the Colonies had made use of their opportunities. This argument, although it appears to His Majesty's Government a legitimate rejoinder to that of Baron von Richthofen, is not one on which they desire to lay stress, for, so far as the present controversy is concerned, they have no intention of drawing a distinction between their own interests and those of the self-governing Colonies.

I have thought it desirable to make these observations in reply to those contained in Baron von Richthofen's note. It seems to me, however, that if the question it to be further discussed, it would be to the

advantage of both sides that it should, as suggested by Baron von Richthofen, take the form of an exchange of ideas in regard to the means of obviating the present difference, and His Majesty's Government would certainly be ready to approach such a discussion in the most considerate spirit.

You are authorized to make a communication in the sense of this despatch to the German Government, and to leave a copy with Baron von Richthofen.

I am, &c.

(Signed) *Lansdowne.*

76.

ALLEMAGNE, LUXEMBOURG.

Arrangement concernant l'assurance contre les accidents du travail; fait à Luxembourg, le 2 septembre 1905*)

Reichs-Gesetzblatt Nr. 40. 1905.

Nachdem der Deutsche Reichskanzler und die Grossherzoglich Luxemburgische Regierung übereingekommen sind, die Anwendung der in Deutschland und in Luxemburg für andere als land- und forstwirtschaftliche Betriebe geltenden Unfallversicherungsgesetze auf solche Betriebe, die aus dem einen Lande vorübergehend in das andere übergreifen, durch ein Abkommen zu regeln, haben zu ihren Vertretern für den Abschluss bestellt:

der Deutsche Reichskanzler

den Kaiserlichen ausserordentlichen Gesandten und bevollmächtigten Minister in Luxemburg, Legationsrat Herrn Grafen von Pückler,

die Grossherzoglich Luxemburgische Regierung

den Staatsminister, Präsidenten der Regierung, Herrn Dr. Paul Eyschen.

Diese Vertreter haben die folgenden Bestimmungen unter Vorbehalt der Genehmigung durch ihre Machtgeber vereinbart:

Artikel 1.

Die nach den Unfallversicherungsgesetzen beider Staaten versicherungspflichtigen Betriebe (mit Ausnahme der land- und forstwirtschaftlichen Betriebe) folgen — mangels anderweitiger von dem Deutschen Reichskanzler und der Grossherzoglich Luxemburgischen Regierung genehmigter Vereinbarungen zwischen den zuständigen beiderseitigen Versicherungsträgern —

*) L'échange des ratifications a eu lieu à Luxembourg, le 23 septembre 1905.

hinsichtlich derjenigen Personen, welche in einem vorübergehend in das Gebiet des anderen Staates übergreifenden Betriebsteile beschäftigt sind, auch für die Dauer dieser Beschäftigung der Unfallversicherung des Staates, in welchem der Sitz des Haupt- oder Gesamtunternehmens gelegen ist. Als vorübergehend übergreifender Betriebsteil im Sinne dieses Abkommens gilt nur ein solcher, dessen voraussichtliche Dauer sechs Monate nicht übersteigt. Der Zeitraum wird für jeden einzelnen übergreifenden Betriebsteil besonders berechnet.

Als vorübergehend beschäftigt sind auch das Fahrpersonal, welches in durchgehenden Zügen die Grenze überschreitet, sowie solche Personen anzusehen, welche ohne Wechsel ihres dienstlichen Wohnsitzes in dringenden Fällen zur vertretungsweisen Wahrnehmung des Eisenbahndienstes in dem Gebiete des anderen Staates nicht über sechs Monate hinaus abgeordnet werden.

Artikel 2.

Entstehen Zweifel darüber, ob nach Massgabe des Artikel 1 die Unfallversicherungsgesetze des einen oder des anderen Staates anzuwenden sind, so entscheidet — mangels einer Verständigung der beiderseitigen Versicherungsträger untereinander und mit dem Betriebsunternehmer und, falls es sich um ein Entschädigungsverfahren handelt, auch mit dem Entschädigungsberechtigten — darüber in ausschliesslicher Zuständigkeit und endgültig die Behörde in dem Staate, in welchem die in Frage stehenden Betriebstätigkeiten ausgeführt werden, und zwar zutreffendenfalls im Deutschen Reiche das Reichs-Versicherungsamt, in Luxemburg die Regierung.

Die gemäss Abs. 1 ergehende Entscheidung ist massgebend auch für den Versicherungsträger in dem anderen Staate sowie überhaupt für die weitere Behandlung der Sache, insbesondere auch für das Beitragsverfahren und für das Entschädigungsverfahren und für die Frage, ob die Organe in dem einen oder die in dem anderen Staate für die weitere Behandlung der Sache zuständig sind. Vor der Entscheidung der im Abs. 1 bezeichneten Stelle ist den beteiligten Versicherungsträgern und dem Betriebsunternehmer sowie, falls bereits ein Entschädigungsverfahren schwebt, auch dem Entschädigungsberechtigten Gelegenheit zur Äusserung zu geben; die ergangene Entscheidung ist den Beteiligten mitzuteilen.

Artikel 3.

Liegt ein zweifellos entschädigungspflichtiger Betriebsunfall vor, bestehen jedoch Zweifel darüber, ob dieser den Versicherungsträgern in dem einen oder in dem anderen Staate zur Last fällt, so hat der mit der Sache zuerst befasste Versicherungsträger nach den für ihn geltenden gesetzlichen Bestimmungen einstweilen die Fürsorge für die Entschädigungsberechtigten zu übernehmen.

Zur endgültigen Uebernahme dieser Aufwendungen ist derjenige Versicherungsträger verpflichtet, welcher demnächst als der Entschädigungspflichtige festgestellt wird.

Artikel 4.

Haben nach den Grundsätzen dieses Abkommens einzelne Betriebe oder Betriebsteile aus der Unfallversicherung in dem einen Staate in die im anderen überzugehen, so erfolgt dieser Uebergang erst mit dem Ende des laufenden Rechnungsjahres. Durch Vereinbarung der beiderseitigen Versicherungsträger kann der Uebergang mit Rechtswirkung für alle Beteiligten bis auf den Zeitpunkt des Inkrafttretens des gegenwärtigen Abkommens (Artikel 7) zurückverlegt werden.

Verpflichtungen aus Unfällen, welche sich vor dem Zeitpunkte des Ueberganges ereignet haben, sind auch weiterhin von demjenigen Versicherungsträger zu erfüllen, bei welchem die unfallbringende Betriebstätigkeit vor dem Zeitpunkte des Ueberganges versichert war.

Artikel 5.

Bei der Durchführung der Unfallversicherung, insbesondere bei der Feststellung solcher Betriebsunfälle, welche der inländischen Unfallversicherung unterliegen, aber im Gebiete des anderen Staates sich ereignen, wird gegenseitige Rechtshilfe durch die zuständigen Organe und Behörden gewährleistet, unbeschadet ihrer Verpflichtung, solche Betriebsunfälle alsbald von Amts wegen festzustellen.

Artikel 6.

Die vorstehenden Bestimmungen finden entsprechende Anwendung auf diejenigen Beamten des Deutschen Reichs, eines deutschen Bundesstaat oder eines deutschen Kommunalverbandes, welche in Unfallversicherungspflichtigen Betrieben der im Artikel 1 bezeichneten Art beschäftigt sind, für welche jedoch an Stelle der deutschen Unfallversicherung eine Unfallfürsorge im Sinne des § 7 des deutschen Gewerbe-Unfallversicherungsgesetzes besteht.

Dabei tritt an die Stelle des im Artikel 2 zur Entscheidung berufenen Reichs-Versicherungsamts für Reichsbeamte der Reichskanzler, für Staats- und Kommunalbeamte die Landeszentralbehörde.

Bei der Anwendung der deutschen Unfallfürsorgegesetze gelten die Vorschriften dieser Gesetze über die Geltendmachung anderweitiger infolge des Unfalls nach den deutschen Gesetzen begründeter Ansprüche auch für solche Ersatzansprüche, welche infolge eines auf luxemburgischem Gebiet eingetretenen Unfalls nach den luxemburgischen Gesetzen begründet sind.

Artikel 7.

Dieses Abkommen tritt mit dem Beginne des auf seinen Abschluss folgenden Monats in Kraft und kann beiderseits zum 1. Januar jedes Jahres mit Wirksamkeit vom 1. Januar des darauf folgenden Jahres gekündigt werden.

Zu Urkund dessen haben die beiderseitigen Vertreter das gegenwärtige Abkommen unterzeichnet und mit ihren Siegeln versehen.

Ausgefertigt in doppelter Urschrift in Luxemburg, den 2. September 1905.

(L. S.) *C. Pückler.*
(L. S.) *Eyschen.*

77.

ALLEMAGNE, AUTRICHE, ESPAGNE, ETATS-UNIS D'AMÉRIQUE, FRANCE, GRANDE-BRETAGNE, HONGRIE, ITALIE, RUSSIE.

Documents, procès-verbaux et protocole final de la Conférence préliminaire concernant la télégraphie sans fil, réunie à Berlin du 4 au 13 août 1903.

Parliamentary Papers. Presented to both Houses of Parliament by Command of His Majesty. 1903.

Matériaux
soumis par l'office allemand à la discussion de la conférence.

Avant-projet.	Questions subsidiaires.
Article Ier.	
Les stations de télégraphie sans fil (radiotélégraphiques), destinées aux communications avec les navires en mer, seront soumises aux dispositions suivantes.	Y a-t-il lieu de réglementer également l'échange: a) entre les navires, b) entre les stations côtières?
§ 1er. Les radiotélégrammes de provenance et à destination des navires seront reçus et expédiés sans égard au système employé.	a) Faut-il imposer au propriétaire de la station le devoir α) de se mettre en rapport, après appel, avec toute personne sans exception; β) d'expédier par la voie la plus courte le télégramme recueilli? b) Peut-on admettre des systèmes qui exigent une syntonisation subtile? c) Ou bien y a-t-il lieu d'imposer le devoir d'établir l'installation de manière à s'adapter, autant que possible, à tous les systèmes?
§ 2. Les longueurs d'onde employées par les stations côtières pour	

Avant-projet.	Questions subsidiaires.
le trafic maritime général feront l'objet d'un avis public.	
	a) Faut-il prescrire des longueurs d'onde déterminées? b) Y a-t-il lieu d'exiger la publication de l'installation technique de toutes les stations? c) Ou bien cette publication doit-elle porter uniquement sur le système employé? d) Faut-il publier la portée maximum des stations?
Il est admis de s'entendre sur l'emploi des ondes d'une longueur spéciale qui n'est pas soumise à la publication.	
§ 3. Les taxes pour l'échange des radiotélégrammes entre les stations côtières et les navires doivent être raisonnables. La moitié des taxes reviendra aux stations côtières, l'autre aux postes à bord des navires.	
	a) Ou bien un autre mode de répartition serait-il préférable? b) Faut-il établir une comptabilité internationale pour assurer le payement des taxes?
Article II.	
L'établissement et l'exploitation des stations radiotélégraphiques, destinées à l'échange avec les navires en mer, ne seront concédés qu'aux entrepreneurs qui se seront soumis aux conditions énumérées sous Art. I.	
Les taxes doivent être approuvées par le Gouvernement sur le territoire duquel se trouve la station côtière.	
Seront exclus les entrepreneurs qui, dans des pays non contractants, refuseraient d'entrer en communication avec les stations à bord des navires munies d'un système différent,	

Avant-projet.	Questions subsidiaires.
ou qui chercheraient, d'une manière quelconque, à la rendre difficile.	
	Faut-il établir d'office un contrôle quant à l'observation des conditions imposées aux stations?
Article III. Un règlement d'exécution fixera des règles uniformes pour le service des stations côtières avec les stations à bord des navires. Ces stations seront tenues à observer les dispositions de ce réglement.	
	Faut-il créer des prérogatives en faveur des navires en détresse?
Article IV. Les dispositions de la Présente Convention ne seront pas applicables aux stations radiotélégraphiques destinées exclusivement à la communication avec les vaisseaux de guerre.	
	Toutefois ne conviendrait-il pas de leur imposer le devoir de prêter, autant que possible, assistance aux navires en danger?
Article V. Les Pays qui n'ont point adhéré à la Présente Convention, y seront admis sur leur demande.	

Procès-Verbaux.

Conférence préliminaire concernant la télégraphie sans fil.

Première Séance.

4 août 1903.

La conférence préliminaire concernant la télégraphie sans fil, convoquée par le Gouvernement allemand, s'est réunie à midi, le mardi 4 août, dans la grande salle des séances du Reichs-Postamt à Berlin.

Sont présents:

Pour l'Allemagne. MM. les Délégués:

Sydow, Sous-Secrétaire d'Etat au Département des Postes de l'Empire,
le Professeur Docteur Strecker, Conseiller intime au Département des Postes de l'Empire,
Wachenfeld, Conseiller intime au Département des Postes de l'Empire,
Schrader, Conseiller au Département des Postes de l'Empire,
le Consul Fluegel, Conseiller de Légation,
le Capitaine de Corvette Rieve,
le Lieutenant-Capitaine Most,
le Docteur Felisch, Conseiller intime d'Amirauté,
le Docteur Beggerow, aide-physicien,
le Capitaine Oschmann,
le Major Klussmann, Chef du bataillon de l'Aérostation Militaire,

et MM.:

Fuhrken, Inspecteur Supérieur des Postes,
Lindow, Inspecteur Supérieur des Postes,
Pfitzner, Inspecteur Supérieur des Postes,
Oberlaender, Secrétaire Supérieur des Postes, Secrétaires de la conférence.

Pour l'Autriche. MM. les Délégués:

Adalbert von Stibral, Conseiller de Section au Ministère du Commerce,
Arthur Linninger, Commissaire Supérieur des Constructions techniques,
le Capitaine de Corvette Léopold Sellner (voir Hongrie).

Pour l'Espagne. MM. les Délégués:

Don Isidro Calvo y Juana, Major du Génie, Chef de l'Escadre de l'Aérostation Militaire.
Don Antonio Pelaez Campomanes, Lieutenant en premier au Régiment des Télégraphes,
Don Mateo García de los Reyes, Lieutenant de Vaisseau.

Pour les Etats-Unis d'Amérique. MM. les Délégués:

le Général A. W. Greely, Chef du Service Militaire Télégraphique,
le Commandant de Vaisseau F. M. Barber,
John I. Waterbury, Délégué spécial.

Pour la France. MM. les Délégués:

Bordelongue, Directeur de l'Exploitation électrique au Ministère du Commerce et de l'Industrie, des Postes et des Télégraphes,
Sins, Ingénieur des Télégraphes, Chef du Bureau de la Correspondance télégraphique internatinale,
le Lieutenant-Colonel Boulanger,
le Capitaine de Vaisseaux Arago,
le Commandant Houdaille,
Magne, Inspecteur des Télégraphes,

Pour la Grande-Bretagne. MM. les Délégues:

J. C. Lamb, C.B., C.M.G., Second Secrétaire du Post Office,
J. Gavey, C.B., Ingénieur en Chef,
R. J. Mackay, Chef de Section au Post Office,
le Colonel du Génie R. L. Hippisley, C.B.,
le Capitaine de Vaisseau H. L. Heath, Directeur-adjoint du Service des Reconnaissances Maritimes,
le Lieutenant de Vaisseau Christopher R. Payne.

Pour la Hongrie. MM. les Délégués:

Charles Follért, Directeur Supérieur des Postes et des Télégraphes,
André Kolossváry, Directeur des Postes et des Télégraphes,
Josef Hollós, Ingénieur en chef,
le Capitaine de Corvette Léopold Sellner (voir Autriche).

Pour l'Italie. MM. les Délégués:

le Contre-Amiral Charles Grillo,
le Capitaine de Corvette Quintino Bonomo del Casale,
le Marquis Luigi Solari, Lieutenaut de Vaisseau,
le Commandeur Fedele Cardarelli, Chef de Division au Ministère des Postes.

Pour la Russie. MM. les Délégués:

le Capitaine de Vaisseau Salewsky,
le Professeur Osadschy, Conseiller d'Etat, Chef de la Section Technique de la Direction Générale des Postes et des Télégraphes,
Bilibine, Conseiller d'Etat, Chef du Bureau des relations internationales postales et télégraphiques à la Direction Générale des Postes et des Télégraphes,
Popoff, Conseiller d'Etat, Professeur de l'Institut Electrotechnique Alexandre III.

A midi et quart M. Kraetke, Secrétaire d'Etat du Département des Postes de l'Empire d'Allemagne, prend place au fauteuil de la Présidence et prononce le discours d'ouverture suivant:

„Messieurs,

„Je suis heureux de pouvoir vous souhaiter cordialement la bienvenue au nom du Gouvernement de Sa Majesté l'Empereur d'Allemagne. Je tiens à exprimer toute ma reconnaissance aux Gouvernements qui sont représentés ici de la courtoisie avec laquelle ils ont donné suite à notre invitation pour la conférence préliminaire, dont les résultats ne manqueront pas de créer le fond pour une réglementation internationale du service radiographique.

„Il y a peu d'années seulement que la télégraphie sans fil est entrée dans le rang des moyens de communication, mais la découverte de ses éléments remonte au delà du milieu du siècle écoulé. Des savants et des techniciens de toutes les nations y ont collaboré.

„Après que le célèbre Faraday eut reconnu la formation des ondes qui se répandent dans l'espace, Maxwell fonda la théorie de leur transmission et de la vitesse de leur propagation et démontra leur analogie avec les vibrations lumineuses. Il était réservé au génie du physicien Hertz de confirmer ces théories par ses recherches: la désignation des „ondes Hertziennes," adoptée par le monde savant, soutient la mémoire de ses mérites. Il appartient à Lord Kelvin d'avoir examiné les phénomènes produits par la décharge des bouteilles de Leyde et d'avoir constaté, d'une manière reconnue parfaite jusqu'à nos jours, le caractère oscillatoire de ces décharges et leur dépendance de le valeur de la self-induction et de la capacité.

„C'est Hughes, le célèbre inventeur du premier télégraphe imprimeur et du microphone, qui posait en 1877 la première pierre pour la radiographie pratique par ses expériences détaillées qui démontrèrent la possibilité de télégraphier à travers l'espace jusqu'à une distance de 500 mètres et au delà. Mais la voie trouvée par Hughes n'a pas été suivie plus tard.

„En 1890 Branly a le premier montré le chemin de l'action d'une décharge oscillatrice à travers l'espace sur un tube rempli de limaille. A sa suite Lodge a indiqué les avantages qu'on peut fournir par ce dispositif pour révéler les ondes électriques.

„En 1895 Popoff à l'occasion de ses recherches qui avaient pour but d'examiner les perturbations électriques de l'atmosphère, imagina de produire des signaux télégraphiques au moyen des ondes hertziennes: c'est à lui que nous devons le premier appareil radiographique. Marconi, en appliquant le premier une antenne au dispositif du poste transmetteur, a ouvert de nouvelles voies à l'exploitation pratique de la télégraphie sans fil. En même temps de nombreux inventeurs de grand mérite ont fait de leur mieux pour perfectionner le nouveau moyen de communication. Les noms des Braun, Ducretet, De Forest, Fessenden, Righi, Slaby, Arco, Tesla sont appréciés par tout le monde. Il me faut renoncer à les énumérer au grand complet.

„Nous devons la radiographie à la collaboration spirituelle de presque toutes les grandes nations. Les communications entre les côtes et les navires d'une part et entre les différents navires d'autre part ont obtenu subitement une grande importance. C'est grâce à la radiographie que des communications ont été créées entre les points du globe qui jusqu'ici étaient privés d'un tel échange. En pleine mer, encore loin des stations reliées au réseau des câbles et des fils aériens, les navires sont mis en état d'annoncer leur arrivée par la transmission des ondes électriques et de mettre à même les fréteurs de préparer sans délai la réception et l'expédition des passagers, des dépêches et des cargaisons, chaque heure d'épargne de temps, due aux messages radiographiques, rapportant un bénéfice considérable. Le passager en haute mer trouve la possibilité d'annoncer à sa famille son arrivée et l'état de sa santé.

„Les navires en détresse qui, jusqu'à nos jours, étaient hors d'état de demander du secours à moins qu'un navire charitable ne s'approchât par hasard, ont l'occasion d'appeler au sauvetage, à une distance de centaines de kilomètres, les navires de passages ou les stations maritimes de la côte et d'assurer ainsi la vie et les biens de leurs passagers.

„Toutefois il ne faut pas se dissimuler que trop d'obstacles s'opposent encore, à l'heure qu'il est, à l'exploitation du nouveau moyen de communication. Le secret des messages transmis et le fonctionnement simultané non interrompu de plusieurs stations ne sont pas encore assurés.

„Néanmoins et dans son développement actuel le nouveau service est déjà d'une importance telle qu'il a besoin d'une protection non seulement dans les limites d'un seul pays, mais au delà dans la communauté des nations. Il importe de fixer des dispositions qui sont de nature à assurer, en plaçant l'intérêt général au-dessus des intérêts locaux, l'exploitation du nouveau service. De même que la télégraphie sans fil n'est pas le produit d'une seule nation, de même qu'elle lance ses ondes au delà des frontières qui séparent les nations, la protection nécessaire de son libre développement ne pourra être assurée que par le concours de toutes les nations maritimes au moyen d'une entente internationale. C'est la tâche de votre réunion de chercher la base pour une telle protection de laquelle profiteraient tous les établissements radiographiques sans distinction du système adopté.

„En souhaitant que les résultats de votre travail contribuent à un nouveau progrès dans les communications internationales et dans le bon rapport entre les nations, j'invite Monsieur le Sous-Secréraire d'Etat à ouvrir la discussion."

(Vifs applaudissements.)

M. Lamb, délégué de la Grande-Bretagne, répond à ce discours dans les termes suivants;

„En ma qualité de Président de la Conférence télégraphique qui vient de se terminer à Londres je me permets de prendre la parole pour

exprimer tout d'abord à son Excellence M. le Secrétaire d'Etat nos remercîments les plus cordiaux pour son éloquente allocution.

„J'invite en outre la Conférence qui se réunit aujourd'hui à présenter à Sa Majesté l'Empereur ses hommages très respectueux.

„On n'ignore dans aucun pays l'intérêt profond qu'a toujours montré Sa Majesté pour tout développement de la science et pour toute manifestation du progrès, et nous nous estimons heureux d'être appelés à nous réunir pour examiner la grande question de l'avenir soulevée par la télégraphie sans fil, à nous réunir ici au centre de l'Empire d'Allemagne qui a tant fait pour développer et améliorer les communications du monde entier."

(Vifs applaudissements.)

M. Sydow, Sous-Secrétaire d'État au Département des Postes, ayant pris les fonctions de Président, propose que MM. Fuhrken, Lindow, Pfitzner et Oberlaender, étant désignés pour constituer le Bureau, rédigent les procès-verbaux et que ces documents, après avoir été examinés de la part de l'Office allemand, soient distribués, comme épreuves, entre MM. les délégués. En outre M. le Président émet l'opinion qu'en raison du caractère préliminaire de la conférence, on pourrait se passer d'un réglement formel pour les délibérations.

Ancune objection n'ayant été soulevée M. le Président propose d'ouvrir une discussion générale sur toutes les questions prévues par l'article Ier de l'avant-projet allemand, se trouvant entre les mains de MM. des délégués, et continue dans les termes suivants:

„Tandis que la télégraphie sans fil n'a pas encore gagné une importance remarquable pour le trafic terrestre ni des succès généralement reconnus en ce qui concerne les transmissions entre des côtes éloignées, son importance et son utilité sont incontestables pour autant qu'il s'agit des communications entre les côtes et les navires en mer ainsi qu'entre ces navires entre eux. Favoriser un libre développement de la télégraphie radiographique sur ce territoire et écarter, dans la mesure du possible, les obstacles qui s'opposent à son emploi, semble être une tâche répondant aux intérêts communs de tous les Etats navigateurs.

„Le but poursuivi par les propositions sous l'article Ier vise donc en première ligne à empêcher la création d'un monopole en faveur d'un seul système, en deuxième lieu à éviter les perturbations des divers systèmes entre eux.

„C'est à un tel monopole en faveur d'un seul système qu'on paraît aspirer d'un côté. Par des arrangements que la Wireless Telegraph Company a conclus avec le Lloyd britannique ce dernier s'est engagé à employer dans ses stations exclusivement le système Marconi et à ne point les laiser communiquer avec des navires qui sont pourvus d'autres systèmes. Il e été constaté que les stations du Lloyd, en suivant ce principe, ne répondent pas aux appels des navires fournis d'autres systèmes. Une pareille disposition limite d'une manière essentielle l'utilité de la télé-

graphie radiographique. Elle ne répond non plus à l'intérêt du développement de la technique: la télégraphie sans fil est encore trop récente pour qu'on puisse accorder à un système déterminé la superiorité, la prépondérance sur tous les autres. Seulement par la libre concurrence de la science et de la technique de toutes les nations on peut s'attendre aux améliorations et aux perfectionnements, dont cette branche moderne de la technique a encore besoin dans une large mesure. Le Gouvernement allemand est d'avis que l'intérêt de la navigation aussi bien que lintérêt de la technique exigent impérieusement de faciliter autant que possible la communication entre les stations côtières et les navires, sans égard aux systèmes existants.

„Pour la même raison le Gouvernement allemand croit nécessaire de chercher des mesures pour empêcher autant que possible les perturbations réciproques des divers systèmes. Aucun des systèmes actuellement employés dans la pratique n'a résolu d'une manière satisfaisante le problème, que deux stations, dont l'une se trouve dans la sphère d'action de l'autre puissent communiquer avec une 3me ou 4me station, sans se déranger l'une l'autre. Si les divers systèmes doivent par principe être admis à la libre concurrence, il sera d'autant plus important de fixer certaines normes internationales pour limiter les perturbations réciproques autant que possible. Le Governement allemand est donc d'avis que la lutte systématique contre la monopolisation de la télégraphie sans fil, la demande que les divers systèmes soient admis à la coopération et en même temps la fixation de normes pour empêcher autant que possible les perturbations réciproques sont les seuls moyens pour éviter une guerre de tous contre tous.

„La question par quelles mesures techniques et administratives on pourra atteindre ce but, devra, à mon avis, être réservée à la discussion spéciale des §§ 1er, 2 et 3 de l'article Ier de l'avant-projet. La question jusqu'à quel point les Etats sont à même d'exiger l'exécution des normes concertées en refusant, le cas échéant, l'autorisation pour l'établissement de stations côtières, sera discutée sous l'article II.“

La discussion générale est continuée par M. Lamb qui s'exprime de la façon suivante:

„Le Gouvernement de la Grande-Bretagne a cru devoir accepter l'invitation courtoise du Gouvernement allemand de prendre part à cette conférence préliminaire concernaut la télégraphie sans fil et il donnera aux résultats des déliberations de la conférence sa considération la plus attentive.

„Néanmoins il ne se trouve pas à même de soumettre des propositions définitives et il pense qu'il lui serait même difficile d'exprimer des opinions définitives sur les questions que le Gouvernement allemand a bien voulu formuler. Il constate tout d'abord que l'invention n'a pas atteint un développement parfait et que ses possibilités et ses limites ne sont pas connues.

„La Grande-Bretagne so trouve d'autre part dans une position exceptionnelle en ce qui regarde les pouvoirs de l'État. Le privilège exclusif du Postmaster General n'est pas applicable aux communications échangées par la télégraphie sans fil avec les pays étrangers ni avec les navires se trouvant hors des limites des eaux territoriales. Il serait par conséquent nécessaire pour le Gouvernement britannique, avant d'imposer un contrôle international, de demander au Parlement des pouvoirs législatifs, et il lui serait difficile de faire voter une loi, si le contrôle envisagé était de nature à porter préjudice à ceux qui auraient établi un service d'exploitation en profitant des facilités que leur accorde la loi actuelle.

„Dans ces conditions la délégation britannique pense qu'elle doit se contenter en général de jouer le rôle modeste de donner la plus grande attention aux vues exprimées par les représentants d'autres pays qui seraient plus à même de traiter la question."

M. Bordelongue, délégué de la France, s'exprime ainsi:

„Messieurs,

„Le Governement français s'est associé dès la première heure aux vues exprimées par le Gouvernement allemand en ce qui concerne la nécessité de réglementer les applications pratiques de la télégraphie sans fil, au moins autant que le permet l'état actuel de la science.

„Dans l'esprit où Son Excellence le Secrétaire d'Etat et M. le Sous-Secrétaire d'Etat au Département des Postes de l'Empire d'Allemagne ont posé la question, il semble qu'aucun amour-propre ne peut être mis en éveil.

„La création et le développement de la télégraphie sans fil sont, ainsi que j'avais l'honneur de le dire à la conférence de Londres, le fruit des nombreux travaux de savants éminents qui, dans divers pays, ont cherché la solution de ce problème.

„C'est donc aujourd'hui encore à une œuvre de progrès commun que nous sommes appelés à collaborer. Comme pour la télégraphie, comme pour la téléphonie, qui ne sont que des modes divers de la transmission de la pensée et qui ont été organisées et réglées de manière à donner la plus large satisfaction à l'intérêt général, à l'intérêt international, de même la télégraphie sans fil doit être organisée de façon à répondre à cette même préoccupation. Notre éminent collègue de la Grande-Bretagne nous a fait connaître que son Gouvernement prêterait une considération attentive aux résultats des délibérations de la conférence de Berlin; il a ajouté cependant qu'il était obligé de garder une attitude de réserve en raison du fait que la législation britannique ne rend possible l'intervention du Post Office, en matière de transmission de la correspondance électrique, qu'à l'intérieur du territoire du Royaume-Uni.

„Je remercie notre collègue de sa déclaration, mais je dois faire remarquer le silence de la législation ne doit pas être un obstacle à faire bien. La législation n'est pas, en effet, intangible, pas plus qu'elle n'est immuable. Elle doit, au contraire, intervenir avec les faits nouveaux qui se produisent

de manière à permettre d'obtenir, dans chaque espèce nouvelle, le maximum d'effet utile. Au surplus, le moment n'est-il pas éminemment propice, à l'origine même du fontionnement encore incertain de la télégraphie sans fil, pour régler tous les points qui peuvent l'être, sans léser des intérêts particuliers? Plus on attendrait, plus alors on pourrait risquer peut-être de porter atteinte à ces intérêts.

„ Au reste, ce n'est point vouloir leur nuire que de chercher à les diriger, dès le début, dans un sens favorable à l'intérêt public. C'est dans cet esprit que le Gouvernement français a adhéré à la conférence actuelle; c'est dans ce même esprit qu'il appuie les vues exprimées par le Gouvernement allemand et qu'il est disposé à prêter son concours à l'œuvre que nous sommes chargés de poursuivre."

M. v. Stibral, délégué de l'Autriche, déclare: „Mon Gouvernement tout en appréciant les difficultés de la matière, est tout disposé à entrer dans la discussion dans le sens de la délégation française et à prendre sa part dans les travaux communs."

M. Solari, délégué de l'Italie, s'exprime dans les termes suivants: „Je crois qu'avant d'entrer dans la discussion des §§ 1er, 2, 3 de l'art. Ier, comme il a été proposé par M. le Président, on doit faire des considérations sur la formulation même de cet article qui, à mon avis, est l'article principal à discuter, et si M. le Président le permet, je me réserve de parler sur ce sujet à la prochaine séance."

M. Grillo, délégué d'Italie, fait la déclaration suivante: „Dans ma qualité de chef de la délégation du Gouvernement de l'Italie je tiens à déclarer que tout en acceptant le point de vue du Gouvernement allemand pour ce qui a égard à la nécessité de réglementer le nouveau système de communication, je crois devoir faire quelque réserve sur l'acception pure et simple de l'article premier du questionnaire, car cela pourrait léser des intérêts particuliers. — Il faut reconnaître en effect que les systèmes actuellement en action se trouvent encore dans un état de développement et que l'expérience pourra démontrer qu'il ne convient pas de laisser libre cours à un système quelconque, mais que peut-être il faudrait en adopter un qui réponde à certaines conditions déterminées.—Or, pour arriver à une résolution si importante, il est nécessaire d'étudier la question dans ses détails et de donner le temps à chacun des délégués d'exprimer son point de vue spécial; je crois donc qu'il serait bon de ne pas encore procéder à la votation sur le premier article, mais de renvoyer la discussion à demain, afin que tous puissent y porter leurs lumières."

M. Salewsky, délégué de la Russie, se prononce de la manière suivante:

„De la part des représentants du Gouvernement russe j'ai l'honneur de déclarer que, si même tous les problèmes concernant la télégraphie sans fil ne peuvent être résolus par la présente conférence, il y en a quelques-uns qui paraissent être à notre portée, et il faut tâcher de commencer ce travail, car une réglementation de ce nouveau moyen des relations

internationales deviendra bientôt nécessaire. Telle est l'opinion de notre Gouvernement, qui, en principe, est d'accord avec la proposition du Gouvernement allemand."

En présence de la déclaration de M. le délégué de l'Italie, M. le Président propose d'ajourner la discussion. Plusieurs représentants de la presse ayant demandé des renseignements sur la marche des discussions, il croit utile de traiter les délibérations confidentielles sauf décision ultérieure. Cette proposition est acceptée.

La séance est close à 1 h. Séance prochaine mercredi 5 Août, à 10 h. du matin.

Le Président:

Sydow.

Les Secrétaires:

Fuhrken. Lindow. Pfitzner. Oberlaender.

Deuxième Séance.

5 août 1903.

La séance est ouverte à 10 h. 5 m. par M. le Président.

Sont présents tous les membres de la conférence qui assistaient à la première séance.

M. Greely, délégué des Etats-Unis, donne lecture de la déclaration suivante:

„Mr. President! The delegates from the United States desire to express in general terms their opinions as to the scope and extent of international action now advisable in formulating regulations for wireless telegraphy.

„Recognising the inchoate state of the science of wireless telegraphy it is our firm conviction that detailed regulations are impracticable, and that this conference should confine its action to the formulation of general resolutions. While embodying therein such principles as will ensure the greatest advantages to the commerce and trade of the world, care should be taken to avoid interference with the development of wireless telegraphy.

„A broad distinction exists between shore-stations, which are entirely within national jurisdiction, and ship-stations on the high sea, beyond the plenary exercise of such control.

„Inasmuch as the interchange of ships' signals under the international code is not obligatory though recognised as commercially important, it seems to us inadvisable, for the present at least, to insist on the interchange of radiograms between ships on the high sea, especially in view of the impracticability of efficaciously enforcing any such regulations.

„Finally, we are of the decided opinion that shore-stations transacting any paid business should be required to accept from and deliver to, suitably

equipped ships and stations all wireless telegrams (radiograms) offered for receipt or transmission.

„A. W. Greely, Brigadier-General, Chief Signal Officer.
F. M. Barber, Commandant U.S. Navy.
John I. Waterbury."

(„Les délégués des Etats-Unis désirent exprimer en termes généraux leur opinion relative à la portée d'une action internationale qui pourrait être utile pour la formulation de règles générales en vue de la télégraphie sans fil.

En présence de l'état incomplet de la science de la télégraphie sans fil nous sommes absolument convaincus que des dispositions détaillées ne sont pas encore opportunes et que cette conférence devrait limiter son travail à la formulation de résolutions générales.

En y insérant tel principe qui assure les plus grands avantages aux relations commerciales du monde, il faudrait toutefois prendre garde de ne pas porter atteinte à un développement non entravé de la télégraphie sans fil. Il y a une grande distinction entre des stations côtières qui se trouvent entièrement sous la juridiction nationale et les stations des navires en mer étant au delà d'un contrôle complet de la part du Gouvernement.

Vu que l'échange de signaux maritimes d'après le code international n'est pas obligatoire mais toutefois reconnu très important pour le commerce, de même il ne nous paraît pas opportun, au moins pour le temps présent, d'insister sur l'échange de radiotélégrammes entre les navires en hautes mer surtout en vue de l'impossibilité d'obtenir dans cette matière une réglementation efficace.

Finalement nous sommes décidément de l'avis que les postes côtiers, engagés dans un service payé, devront être contraints à accepter d'autres stations côtières et des navires et à leur transmettre tous les radiotélégrammes dans le cas où les postes côtiers et à bord des navires sont dûment outillés sous ce rapport.")

M. Solari, délégué de l'Italie, donne lecture du mémoire suivant:

„Guidé par le désir de protéger impartialement l'intérêt général, je tiens à faire quelques observations sur la disposition exprimée dans le § 1er de l'article Ier, proposé par le Gouvernement allemand. Ces observations se rapportent aux conséquences qu'aurait, à mon avis, l'acceptation pure et simple du texte de ce paragraphe. Elle donnerait lieu à plusieurs difficultés que je chercherai d'exposer brièvement ci-après:

„1° Difficultés d'ordre technique. La grande inégalité des appareils aujourd'hui en commerce mettrait en question une réception parfaite même si des règles égales de syntonie sont observées dans la transmission. On sait que la sensibilité et le dispositif des appareils récepteurs sont différents et que chaque système applique un mode spécial de syntonisation. En quelques cas un cohéreur à poudre métallique, relié aux extrémités d'un transformateur (jigger ou multiplicateur) ou bien aussi relié directement à

l'extrémité inférieure du fil aérien, ne répond pas à la transmission d'un système, tandis que le détecteur magnétique assure encore nn très bon fonctionnement. En outre un récepteur se démontre sensible lorsqu'il est placé entre deux ventres d'oscillation de la f. e. m., tandis qu'un autre récepteur reste insensible dans les mêmes conditions. Il s'en suit qu'il y a des cas où un récepteur est efficace, un autre récepteur ne l'est pas quand même les conditions de la transmission soient les mêmes et soient rendues notoires. Je ne veux pas exclure qu'on ne puisse pas maintenir quelquefois une assez bonne communication entre des appareils de différents systèmes, mais j'ai le désir d'affirmer que ces communications seraient toujours variables et douteuses et qu'elles, ne donneraient aucune garantie d'un service régulier. Je n'ai pas l'intention de préférer un certain système aux autres, mais je désire seulement fixer ce qui m'a été suggéré par l'usage des appareils différemment modifiés.

„Seulement au jour auquel la Marine italienne a adopté—après avoir utilisé pendant plusieurs années l'initiative de son personnel dans l'usage des systèmes plus ou moins modifiés—un unique système, le système Marconi, modèle 1901, elle est parvenue à un service radiotélégraphique sur l'efficacité duquel mes supérieurs ici présents pourront donner des déclarations compétentes.

„Mais tout en admettant que dans le temps plusieurs systèmes puissent donner également la garantie d'un service aussuré, il faut tenir présent qu'à cause du petit nombre des tons indépendants, on devrait imposer l'emploi d'un unique ton, et compter sur l'ordinaire intervalle de temps entre les passages successifs de navires auprès d'une station pour garantir un certain ordre dans les communications radiotélégraphiques; mais, en considération de l'indiscutable différence existant dans la portée des différents systèmes, il y aurait toujours une grande difficulté de maintenir un tel ordre, puisque le service serait dans la plupart des cas absorbé par les navires munis d'appareils de la plus grande portée.

„2° Difficultés d'ordre organique. Le service de plusieurs systèmes provoquerait souvent des rivalités entre les navires et les stations côtières et par conséquent des difficultés pour un juste contrôle. En outre la grande délicatesse de ce service exigerait une instruction uuiforme du personnel, ce qui causerait des difficultés en vue de l'organisation différente du service dans les différents pays.

„3° Difficultés d'ordre commercial. Pour ce qui concerne les dépenses énormes qui ont été faites pour le développement des différents systèmes il serait impossible de garantir à ceux-ci une part égale du service commercial. Il faudrait respecter les contrats qui sont déjà conclus entre les Gouvernements et les compagnies de télégraphie sans fil et tenir compte des droits légitimes des compagnies qui possèdent aujourd'hui le plus grand nombre de stations coûteuses et expérimentées et qui seraient obligées de les mettre à la disposition des propriétaires des installations économiques à bord des navires.

„4° Difficultés d'ordre militaire. Les différentes nations désireront faire usage d'un système qui a fait ses preuves dans leurs armées respectives. Mais l'emploi de plusieurs systèmes internationaux rendrait très malaisé l'échange entre les vaisseaux de guerre et les stations côtières commerciales à cause des difficultés techniques et administratives, tandis que l'adoption d'un unique système international, duquel tous les vaisseaux de guerre se serviraient de la même manière comme du système international des signaux, faciliterait le service radiotélégraphique.

„5° Difficultés d'ordre scientifique. Un service cumulatif de plusieurs systèmes exigerait l'observation de règles déterminées qui limiteraient les recherches des inventeurs au détriment du développement de la nouvelle science qui n'est pas encore mûre et entraverait tout progrès du génie personnel.

„En considération donc de ces difficultés, il résulte qu'il n'est pas convenable à l'intérêt public d'adopter la première proposition.

„Je propose donc l'adoption temporaire d'un unique système, c'est-a-dire de celui qui aujourd'hui se démontre en pratique le meilleur quant à la portée de la communication, au développement du service international et à la bonne organisation. Je parle d'une adoption temporaire puisqu'on peut s'attendre à un progrès dans le développement des systemes et qu'il faut laisser la voie ouverte à la concurrence pour l'avenir.

„Quant au choix de ce système, je désire déclarer que je n'ai pas une préférence indiscutable pour un certain systeme.

„J'ai suivi, cest vrai, les expériences magnifiques de M. Marconi à travers l'Europe et à travers l'Atlantique, expériences officiellement contrôlées par mon Administration. J'ai reçu moi-même plus de 2000 mots avec les appareils Marconi à une distance de 4000 km. et je doute qu'il ne soit possible d'obtenir par d'autres systèmes des résultats aussi satisfaisants. Mais si un autre système pourrait offrir des avantages supérieurs à ceux garantis par le système Marconi, je serais bien heureux d'aller moi-même demander au nouvel inventeur de mettre son travail à la disposition de mon pays.“

Après la lecture de ce mémoire

M. Bordelongue, délégué de la France, fait observer que l'exposé de M. le Lieutenant de vaisseau Solari, que chacun des membres de l'assemblée a écouté avec toute l'attention qu'il mérite, oppose à une réglementation de la télégraphie sans fil, telle qu'elle peut être actuellement conçue, c'est-à-dire d'après des bases très générales, des difficultés de divers ordres, organiques, commerciales, militaires et scientifiques. Il conclut à l'adoption temporaire d'un système unique afin de prévenir ces difficultés.

M. Bordelongue pense que la discussion de ces divers points trouvera sa place à l'occasion de l'examen des divers articles du programme soumis à la conférence.

Il propose, en conséquence, de clore la discussion générale et d'aborder ce programme, article par article.

M. Cardarelli, délégué de l'Italie, est en général de l'avis de M. Bordelongue pour ce qui concerne l'ordre de la discussion. Quant à la teneur de l'article Ier, il propose d'intercaler entre „navires en mer“ et „seront soumises“ les mots: „et celles de ces derniers entre eux.“

La discussion générale de l'article Ier est close. On entre dans la discussion spéciale des questions subsidiaires sous I.

M. Wachenfeld, délégué de l'Allemagne, s'exprime dans les termes suivants sur les intentions du Gouvernement allemand:

L'article premier ainsi que tout l'avant-projet qui vous a été communiqué ne vise que l'échange des correspondances entre les navires en mer et les stations côtières. Mais on pourrait aller plus loin; on pourrait se demander s'il n'y aurait pas lieu de réglementer également l'échange des correspondances entre les navires, de même que celui entre les stations côtières. En vous invitant à vouloir bien vous prononcer sur ces deux points je me permets de vous exposer en quelques mots notre opinion.

La communication des navires entre eux est, à notre avis, de moindre importance générale que la communication des navires avec les stations côtières. Il serait, en outre, bien difficile de contrôler l'exécution d'un règlement qui concerne l'échange des correspondances entre les navires. Aussi nous semble-t-il qu'on peut s'abstenir de réglementer cet échange.

Quant à l'échange des correspondances entre les stations côtières des différents pays, nous pensons que, dans l'état actuel des choses, il serait prématuré de tenter une réglementation.

Toutefois nous sommes d'avis qu'aussi dans les cas où il s'agit d'un échange de correspondances, soit entre des navires, soit entre des stations côtieres, les stations correspondantes doivent se soumettre aux dispositions qui ont pour objet d'empêcher que les différents postes radiotélégraphiques ne se troublent mutuellement.

Ces dispositions concernant la perturbation mutuelle nous occuperont plus tard; je les laisse de côté à présent.

Je me résume donc qu'à notre avis il convient de répondre aux deux premières questions subsidiaires négativement, sauf la réserve que j'ai faite par rapport à la perturbation. Sous tous les autres rapports nous jugeons à propos de borner la réglementation à l'échange des correspondances entre les navires en mer et les stations côtières.“

M. Grillo, délégué de l'Italie, estime qu'il faut fixer le rayon dans lequel le trafic sera admis et qu'il faut laisser libre cours aux navires en large mer en limitant la réglementation aux rayons des stations côtières et aux cas où les navires se trouvent dans une certaine distance de la côte; il juge nécessaire de fixer des règles pour empêcher des perturbations. Il répète la déclaration que l'Italie ne refuse pas de suivre la discussion des autres articles.

M. Bordelongue est d'avis qu'il convient de ne restreindre ni d'étendre le programme qui doit servir de base aux travaux de la con-

férence, programme qui a reçu dans ses bases générales l'approbation des Gouvernements représentés.

Ce programme prévoit la réglementation du service d'exploitation des stations côtières avec les navires en mer. Il ne va pas au delà et la délégation française ne pourrait éventuellement consentir à outrepasser les instructions qu'elle a reçues.

Au surplus, on ne pourrait, sans se leurrer volontairement, songer à établir, à l'heure actuelle, des régles relatives à la correspondance entre les stations côtières des différents pays.

Ce serait faire croire que les échanges par le nouveau systéme sont devenus possibles à de longues distances; ce serait donner une sorte de patronage moral à l'appel qui pourrait être fait aux capitaux afin de venir en aide à la création d'entreprises de ce genre; ce serait donner au public l'idée actuellement fausse, que la télégraphie sans fil peut se substituer pratiquement et commercialement à la transmission par les câbles sous-marins.

M. Bordelongue exprime donc l'opinion qu'il n'y a pas lieu de réglementer le service de la correspondance publique entre stations côtières de différents pays.

Une telle règlementation souléverait d'ailleurs des questions extrêmement complexes, que l'on n'est pas en état de discuter en ce moment, notamment celle du partage de l'air territorial proprement dit et celle de la fixation de la zône de l'air territorial analogue, non comme limite, mais seulement comme propriété à la zône des eaux territoriales.

Pour ces mêmes motifs, il n'est pas, pour le moment, possible de fixer des règles pour la correspondance des navires entre eux, en delà des eaux territoriales.

M. Bordelongue est d'avis qu'une fois des dispositions fixées pour la transmission des télégrammes entre les stations côtières et les navires en mer, le personnel des navires pourvus d'appareils de télégraphie sans fil aura intérêt et pourra être incité à les observer pour sa propre correspondance, surtout quand il se trouvera dans le champ de propagation des ondes d'une station côtière et qu'il saura que de fausses manœuvres de sa part peuvent nuire au service général.

M. le Président partage cette manière de voir parcequ'il serait assez difficile de réglementer le service des navires entre eux.

M. v. Stibral, délégué de l'Autriche, est d'avis qu'il s'agit seulement de réglementer les communications entre les stations côtières et les navires, mais les communications des navires entre eux ou des stations entre elles seulement pour ce qui concerne les perturbations.

L'Espagne, la Hongrie, la Russie et la Grande-Bretagne s'associent à l'opinion de la délégation française. Seulement

M. Lamb, délégué de la Grande-Bretagne, fait observer que l'empêchement des perturbations est une question technique de laquelle on ne sait pas si la science est assez avancée. Le Gouvernement de la Grande-

Bretagne n'a pas le pouvoir de régler les échanges des signaux au delà des frontiéres du Royaume.

M. le Président constate l'opinion de la conférence qu'il est nécessaire de réglementer le service entre les stations côtières et les navires en mer et qu'il semble désirable et utile de réglementer de méme le service des navires entre eux et des stations côtières entre elles seulement autant qu'il s'agit d'éviter des perturbations mutuelles.

Ce point fixé, M. le Président met à la discussion le § 1er de l'article Ier.

M. Cardarelli, dans le but de faciliter une entente sur la diction de l'article Ier, propose d'ajouter à la fin dudit article la phrase:

„pourvu que tous ces systèmes donnent une garantie reconnue d'un bon fonctionnement dans la correspondance réciproque quant à la portée, à la perfection de l'organisation et à la sûreté des communications."

M. Bordelongue demande: „Quelles sont les qualités d'un bon fonctionnnement? Qui doit juger de la qualité des systèmes?"

M. Cardarelli: „Ce sont des appareils qui assurent la correspondance par exemple jusqu'à une distance de 300 à 400 kilomètres. Les qualités des systèmes serairent à juger par une commission internationale."

M. Bordelongue pense que la constitution d'une commission internationale serait une complication inutile. On ne peut, dans une question de ce genre, alors que l'on est au début même des applications de la télégraphie sans fil et que le progrès se poursuit dans tous les pays, limiter la faculté des Gouvernements. On peut d'ailleurs être assuré que chacun d'eux aura suffisamment le souci des devoirs que lui crée le service de la correspondance publique pour tenir son outillage à la hauteur des besoins internationaux.

Il n'y a d'ailleurs en cette matière qu'à procéder comme on l'a fait pour la télégraphie par fil. Ce sont les appareils les meilleurs qui, par leur valeurs technique, se sont imposés au libre choix des Administration.

M. Solari croit qu'il est impossible d'accepter la proposition de la France au point de vue technique, car, pour le bon fonctionnement d'un service cumulatif radiotélégraphique, il faudrait s'assurer avant tout de l'efficacité réciproque des systèmes.

M. Bordelongue fait observer que les appareils des différents systèmes travaillent bien ensemble.

M. v. Stibral croit bien que chaque pays aura l'intérêt de choisir un système qui lui suffira et permettra d'entrer en communication avec les stations d'un autre système quelconque.

Une discussion sur § 2 de l'article Ier donne lieu à un échange d'opinions entre MM. les délégués Calvo y Juana, Boulanger, Strecker et Sellner sur la question de l'existence d'un appareil pour mesurer la longueur des ondes électriques. M. Strecker est prêt à donner, à ceux de MM. les délégués qui s'y intéressent, des descriptions précises.

M. Greely est d'avis qu'il faut laisser libre concurrence au développement des systèmes.

M. Lamb prononce le discours suivant:

„Nous avons dit qu'il serait difficile pour le Gouvernement britannique d'obtenir par la voie législative le droit d'exercer un contrôle qui pourrait porter préjudice à ceux qui auraient déjà établi des installations. On nous a répondu que la législation serait peut-être nécessaire dans tous les pays et que cette question ne devrait exercer aucune influence sur les décisions ultérieures des Gouvernements. Mais nous croyons devoir expliquer pour la Grande-Bretagne que ce n'est pas seulement une question d'obtenir des pouvoirs additionnels. Les autres pays sont pour la plupart à même de refuser aucune concession pour l'exploitation de la télégraphie sans fil ou de n'accorder de telles concessions que sous la réserve que les concessionnaires se soumettent à tout réglement que pourrait adopter l'État ultérieurement. Mais dans notre pays les compagnies peuvent établir des installations sans la nécessité de se soumettre à aucune condition. Par conséquent il nous faudrait considérer très sérieusement toute obligation qui pourrait restreindre l'exploitation d'une compagnie qui serait déjà en possession d'un nombre d'installations.

Comme nous l'avons déjà expliqué nous ne pouvons que parler sous toute réserve. Mais nous croyons devoir soulever la question s'il n'y aurait pas lieu, au cas de l'acceptation de l'obligation de recevoir et d'expédier les radiotélégrammes sans égard au système employé, de considérer la position commerciale des compagnies qui auraient contribué au développement de l'invention. Jusqu'aujourd'hui le champ est resté ouvert dans la Grande-Bretagne et en certaines autres parties du monde pour l'élaboration du système qui répondrait le mieux au besoin du nouveau service que la télégraphie sans fil pourrait offrir au public. L'honorable délégué de la France a fait observer qu'il serait à désirer dans cette question de laisser le chemin ouvert pour la libre concurrence, mais c'est justement ce qui s'est passé jusqu'aujourd'hui chez nous. On a joui d'une liberté parfaite d'organiser un service, libre de toute restriction de la part du Gouvernement, en suivant les méthodes de la concurrence commerciale, et on propose maintenant de restreindre cette liberté, en imposant aux entrepreneurs l'obligation d'échanger des communications avec des installations concurrentes qui peut-être n'auraient pas atteint le même niveau de développement.

Si ce n'était qu'une question de l'organisation d'un service par les États respectifs il serait peut-être naturel que tout État admettrait autant que possible les systèmes adoptés par les autres. Mais les compagnies commerciales qui auraient déjà organisé un service à plusieurs installations à grands frais pourraient bien hésiter de mettre leurs installations à la disposition de tout concurrent sans rétribution. Il nous semble que l'on pourrait avec raison insister à ce que toute station, autant qu'il serait possible sous le point de vue technique, échange des communications avec les navires en détresse ou avec les navires de guerre de toute nation, sans aucun égard au système employé. Mais en ce qui concerne le service ordinaire avec les navires de commerce, il nous semble équitable que si

l'on imposait une obligation, cela ne devrait se faire que sous condition de sauvegarder les intérêts légitimes de la compagnie en cause au moyen d'une rétribution spéciale, par exemple d'une taxe plus élevée pour toute communication échangée avec un navire muni d'une installation d'un système différent."

M. Greely demande si la télégraphie sans fil n'est pas soumise en Angleterre aux lois du „common carrier", comme les compagnies des câbles.

M. Lamb répond qu'au delà des limites du territore il n'y a plus de monopole du Gouvernement en Angleterre. On impose seulement aux compagnies des câbles des conditions qui les obligent d'accepter les messages de tout le monde, parce que ces compagnies sont sous la nécessité de demander la permission d'atterrer leurs câbles.

M. Solari a vu de ses propres yeux quelle liberté on a accordé en Angleterre à chaque système radiographique. Mais puisque le Gouvernement anglais a considéré les cas de restreindre cette liberté en donnant des indemnités, M. Solari croit difficile d'établir à présent ces indemnités et il croit plus utile l'adoption temporaire (pour le service international) du système qui a offert, jusqu'à présent, la plus grande garantie du bon fonctionnement et de laisser libre concurrence aux autres systèmes pour le service intérieur de chaque État.

M. Bordelongue croit devoir demander que l'on veuille bien faire préciser la portée de la déclaration très importante faite au nom de la délégation de la Grande-Bretagne.

L'honorable M. Lamb, répondant à une question qui s'est posée à la première séance, vient d'expliquer que, alors même que son Gouvernement ferait reviser la législation en matière de correspondance publique à l'extérieur du Royaume-Uni, il ne pourrait pas ne pas considérer la situation déjà acquise et notamment toute obligation qui pourrait restreindre l'exploitation d'une compagnie qui serait déjà en possession d'un certain nombre d'installations.

Le point de vue signalé s'est déjà soulevé en Angleterre à l'occasion des compagnies de câble qui, sous le rapport de la liberté d'exploitation, se trouvent dans les mêmes conditions que les compagnies de télégraphie sans fil. Cependant ces compagnies ont été amenées à observer les règles de l'union télégraphique. Il est même de notoriété que pour celles qui n'ont pas explicitement adhéré à l'union télégraphique, le Post-office n'attend que l'expiration des concessions actuelles pour leur imposer l'obligation de cette adhésion. On ne peut d'ailleurs que le féliciter de ce souci de l'intérêt international. — M. Lamb a même ajouté qu'on impose aux compagnies de câble des conditions qui les obligent à accepter les messages de tout le monde.

Comment donc peut-on concilier cet état de choses et les termes de la déclaration de la délégation britannique? Qu'est-ce qui justifierait, en effet, l'application aux compagnies de télégraphie sans fil, dont on peut

dire que l'exploitation est, à l'heure actuelle, si embryonnaire qu'en réalité elle n'existe pas comme service public, d'un traitement plus favorable que le traitement accordé aux compagnies de câbles?

Nous ne demandons qu'une chose, c'est que la compagnie Marconi, si c'est à cette seule compagnie que M. Lamb a fait allusion, soit obligée, comme les compagnies de câbles, à recevoir les messages de tout le monde. D'ailleurs, si cette question se pose, c'est uniquement parce que cette compagnie a marqué son intention de refuser les télégrammes qui ne seraient pas transmis à l'aide de ses appareils.

Il nous semble tout d'abord que c'est une mauvaise doctrine commerciale que de limiter, de propos délibéré, ses propres bénéfices d'exploitation. Mais il nous semble aussi que, admettre une semblable doctrine serait, de la part du Post Office, léser les intérêts de ses propres nationaux et l'intérêt général, c'est-à-dire l'intérêt international.

On pourrait croire, dans ce cas, que la compagnie Maroni craint une concurrence d'appareils et qu'elle cherche à sauvegarder non une exploitation à peine sommairement constituée, mais à imposer un appareil unique. Quant à nous, nous sommes persuadés que ce n'est pas le rôle des États de favoriser, par des mesures internationales, des dispositifs techniques. La vente des appareils, qui est un des bénéfices naturels et le débouché le plus normal des compagnies de télégraphie sans fil, doit nous demeurer étrangère. Le perfectionnement des systèmes est, d'ailleurs, subordonné à la libre concurrence. Nous n'avons qu'à nous préoccuper de régler les conditions d'exploitation d'un service public au mieux de l'intérêt général dont les Gouvernements ont la sauvegarde.

M. Lamb insiste encore une fois sur la nécessité de régler la rémunération des compagnies.

M. le Président ne peut pas reconnaître une obligation des Gouvernements d'indemniser les compagnies qui n'ont pas été autorisées par l'État. „Aucun des Gouvernements représentés ici ne veut porter préjudice aux compagnies existantes, mais il faut insister, pour ce qui concerne le trafic international, à ce que toutes les stations radiographiques acceptent tous les messages qui leur sont confiés. Une réglementation internationale n'apportera aucun préjudice, mais au contraire des avantages très sérieux aux compagnies existantes, y inclus la compagnie Marconi. Supposons que nous ne parvenons pas à une entente, aucun État ne serait tenu à empêcher la création de stations puissantes de nature à entraver le service de toutes les stations d'une moindre puissance se trouvant dans l'immense sphère de leur action.

Il va sans dire que nous avons aussi considéré les vues commerciales et que nous désirons accorder aux systèmes existants une quote-part convenable de la taxe à percevoir pour les radiotélégrammes. Cependant il y aura avantage de discuter cette question de même que celles de l'indemnisation avec l'article II. Il nous reste donc ici de décider s'il est utile de fixer des règles pour l'échange des télégrammes entre les stations qui appartiennent à un système différent."

M. Lamb explique qu'il serait difficile pour la délégation britannique d'adhérer à l'article Ier sans en même temps sauvegarder les intérêts des compagnies.

M. le Président demande si le Gouvernement anglais ne veut admettre que quelques systèmes ou tous les systèmes, et M. Bordelongue pose encore une fois la question, s'il s'agit de protéger les fabricants des appareils ou seulement les compagnies d'exploitation.

M. Lamb répond que c'est une question de l'exploitation.

Après une remarque de M. Bordelongue qu'il ne faut avoir égard, lors de la discussion du § 1er de l'article 1er, qu'aux appareils et à la technique, M. Lamb réplique, que l'état actuel en Angleterre donne toute la liberté d'action aux compagnies d'installer des stations et d'imposer leurs conditions. M. Bordelongue, d'accord avec M. le Président, propose de remplacer les mots „sans égard au système employé" au § 1er par les mots: „quels que soient les systèmes employés."

M. Grillo: La délégation italienne n'est pas en état d'adhérer à cette proposition qui donnerait aux compagnies, n'ayant pas des appareils perfectionnés, des avantages au détriment des compagnies qui ont fait de plus grands progrès. C'est pourquoi le Gouvernement de l'Italie accepterait seulement les systèmes choisis et admis par une commission internationale et qu'il insiste toujours sur l'insertion de l'addition proposée par la délégation italienne.

M. Felisch, délégué allemand, suggère d'ajouter derrière le mot „reconnue", dans la proposition italienne, les mots suivants: „par les parties contractantes."

M. Bordelongue revient sur les observations de M. l'amiral Grillo. Il insiste de nouveau sur ce fait que les États auront le plus grand intérêt à choisir les meilleurs appareils. Mais, à l'heure actuelle, il serait bien imprudent d'affirmer la supériorité d'un système. Certains résultats obtenus, en simples expériences, peuvent dépendre beaucoup plus de l'habileté des opérateurs que de la valeur absolue du dispositif. Pour établir une comparaison, il faudrait un appareil étalon et personne certainement ne voudrait prendre la responsabilité de dire qu'il existe et encore moins d'en faire choix.

M. Marconi est un savant éminent à qui la télégraphie sans fil doit déjà beaucoup et lui devra plus encore, il l'espère. Mais d'autres avec lui y ont apporté leur large contribution et ont obtenu des résultats pratiques remarquables. M. Bordelongue pourrait mentionner plusieurs noms. Il n'en citera qu'un parce que celui qui le porte est ici présent et que cet hommage lui est dû, celui de M. le Professeur Popoff,

M. Grillo insiste sur ce que les appareils Marconi sont ceux qui répondent le mieux au besoin des communications internationales et qui sont les seuls qui ont réussi à franchir l'Atlantique.

M. Hollós, délégué de la Hongrie, déclare que le Gouvernement hongrois se prononce pour la libre concurrence des systèmes différents. M. Salewsky, délégué de la Russie, adhère à l'amendement français;

il ajoute que tous les systèmes ont fait leurs preuves dans l'emploi pratique ordinaire et que, tout en appréciant les résultats des expériences de Marconi, il ne leur reconnaît qu'un mérite scientifique en ce qui concerne les transmissions à d'énormes distances.

M. Cardarelli n'a rien à objecter contre la libre concurrence, toutefois il juge utile d'employer des appareils du même système des deux côtés, et, bien entendu, d'un système reconnu le meilleur.

M. le Président constate que la plupart des Gouvernements représentés ici sont convaincus de l'utilité de la libre concurrence, à l'exception de l'Italie, qui a fait les réserves sus-mentionnées à plusieurs reprises, et de la Grande-Bretagne qui voit de grandes difficultés dans l'état actuel de sa législation. Il ouvre alors la discussion sur la question subsidiaire, prévue sous I, 1a.

M. Bordelongue propose d'accepter d'emblée toutes les questions subsidiaires, sauf discussion ultérieure des détails, et de remplacer la teneur actuelle de la question β par la rédaction suivante:

(β) de remettre immédiatement le télégramme recueilli au réseau télégraphique local."

M. le Président prie de joindre les questions subsidiaires b et c, à la discussion du § 2.

M. Strecker, délégué de l'Allemagne, donne l'exposé suivant:

„Les deux questions subsidiaires b et c doivent être traitées ensemble.

En b il s'agit d'une syntonisation quelconque, soit électrique, soit mécanique. Les moyens de syntonisation électrique sont bien connus. Par ‚syntonisation mécanique' nous entendons un système qui emploie, par exemple, des appareils à synchronisme tel que l'appareil Hughes ou le zérographe de Kamm ou bien un système tel que l'a proposé M. Anders Bull. En ces systèmes à syntonisation mécanique il ne suffit plus que les deux stations, voulant s'entretenir, aient la même longueur d'onde; il leur faut en outre connaître un certain temps, par exemple le temps d'une révolution de l'appareil Hughes.

Sera-t-il convenable, de défendre l'emploi d'un tel système? d'un système à syntonisation électrique ou mécanique? Je crois que non.

Car ce serait empêcher un progrès des plus importants en radiotélégraphie. Nous espérons qu'un jour nous aurons un système de syntonisation parfaite, permettant à plusieurs stations de parler en même temps sans confusion des communications. Alors ce serait le système modèle.

Mais si l'on admet les systèmes à syntonisation, il y a risque que, d'autre part, un entrepreneur pourrait trouver le moyen de se procurer un monopole. Il est donc nécessaire que les moyens précis pour atteindre la syntonisations seront publiés. Alors chaque vaisseau pourra se faire entendre d'une station côtière qui est pourvue d'un tel système.

Nous aurons à parler de cette publication au paragraphe prochain, No. 2.

Le contraire de la syntonisation subtile dont parle la question b est l'adaptation de l'installation à tous les systèmes, question c. Vous voyez

que, par les mots ‚autant que possible' on a eu égard à la difficulté d'une telle adaptation. Mais toutefois il est nécessaire que chaque station côtière pourrait être appelée par un vaisseau qui a un système radiotélégraphique quelconque.

En conclusion, on admettra les systèmes à syntonisation subtile à condition que tous les éléments de la syntonisation soient publiés, et on imposera aux stations côtières le devoir de s'installer de manière que chaque vaisseau, connaissant les éléments de la syntonisation, puisse se faire entendre à une station côtière quelconque dont il s'est rapproché suffisamment."

M. le Président résume que l'Allemagne répond à la question b dans l'affirmative, cependant sous la réserve de la publication des conditions techniques sous lesquelles ont peut obtenir des communications avee les stations en cause.

Après un échange de vues sur la signification de l'expression „subtile" par rapport à la syntonisation, M. Solari fait remarquer que le mode de la syntonisation est souvent breveté et que la publication demandée pourrait léser les intérêts des inventeurs.

M. Cardarelli, au sujet de la syntonisation, peut déclarer qu'il a vu des expériences très bien réussies de télégraphie sans fil multiple entre les stations Marconi de Poldhu et Lizard. On a reçu à la station de Lizard sur le même fil aérien deux dépêches envoyées simultanément par la station de Poldhu.

A titre d'introduction dans la discussion du § 2, M. Strecker donne l'exposé suivant:

„Au dernier paragraphe j'ai déjà montré qu'à bord de chaque vaisseau il faut connaître les éléments de syntonisation des stations côtières. En premier lieu on imposera à ces stations le devoir de publier la longueur d'onde qu'elles emploient.

Mais chaque station pourra-t-elle choisir une longueur d'onde telle qu'elle voudra? Par exemple une station choisira 200 m., la voisine 280 m. la prochaine 240, etc. Peut-être serait-il plus utile de fixer quelques longeurs qui feront une progression, telle que 100, 200, 300, 400, ou 150, 250, 350, 450, etc, afin que chaque station en choisirait une. Ce procédé rendra plus facile la syntonisation et simplifiera l'outillage des vaisseaux. Au lieu d'exiger cette progression on pourrait se borner à la recommander comme norme.

Au paragraphe précédent nous avous vu que les stations à syntonisation mécanique seront obligées de publier, en outre de la longueur d'onde, aussi les autres éléments de leur syntonisation.

Ces indications suffiront-elles?

On pourra en outre exiger la publication de l'installation technique de toutes les stations (question subsidiaire b). Mais ce sera trop. Cette question n'est posée que pour être niée, pour conduire à la prochaine question subsidiaire

c) qui doit être affirmée. Car les particularités d'un système ne peuvent être exprimées en chiffres seuls, tels que la longueur d'onde et d'autres éléments de syntonisation.

d) Quand un vaisseau se rapproche d'une station côtière, il lui conviendra bien de savoir à quelle distance il réussira à appeler la station. Dans ce but il faut connaître une portée déterminée de la station par exemple en supposant un vaisseau à mâts de 30 m. de hauteur. Ce chiffre de portée sera un peu arbitraire, c'est vrai; mais l'expérience règlera bientôt l'usage. La portée d'une station côtière sera alors marquée dans les cartes maritimes comme le sont les portées des phares.

Au lieu de ce chiffre arbitraire on pourrait exiger la publication des dimensions de l'antenne et de ses annexes; de là on pourrait estimer ou calculer la portée; mais ce sera trop compliqué.

En conclusion, les indications à publier par rapport à chaque station côtière sont:

la longeur d'onde,
les autres éléments de syntonisation, s'il y en a,
le système dont est pourvu la station,
sa portée maximum.

La longueur d'onde sera choisie entre les longueurs recommandées comme normales."

M. Calvo y Juana, délégué de l'Espagne, croit que la portée maximum des transmissions est en rapport avec les longueurs d'onde. Il est donc d'avis qu'il faudrait publier non seulement les longueurs d'onde mais aussi leur portée.

M. Boulanger, délégué de la France, fait ressortir que la syntonisation ne dépend pas seulement des longueurs d'onde mais aussi d'autres éléments, par exemple de la sensibilité du récepteur. Il y a donc lieu de chercher le critérium de chaque station et de faire de profondes études pour trouver un récepteur-étalon. Pour le moment on pourrait réserver la question pour une discussion ultérieure.

Au nom de la Marine austro-hongroise M. Sellner fait la proposition suivante:

Chacun des pays contractants publiera chaque année une liste des stations radiographiques établies sur son territoire, indiquant tous les détails nécessaires au sujet de ces stations et notamment la longueur des ondes appliquées par ces stations à la correspondance avec les navires en mer.

Sous réserve de l'approbation des Gouvernements intéressés des ententes particulières peuvent être établies sur l'emploi des longueurs des ondes spéciales, qui alors n'ont pas besoin d'être publiées."

M. Bordelongue propose une autre rédaction pour le § 2, savoir:

„Les Etats contractants devront rendre publics tous les renseignements techniques de nature à faciliter et à accélérer les communications entre ces stations côtières et les navires en mer.

Toutefois, chacun des Gouvernements contractants pourra autoriser les stations situées sur son territoire, et cela dans les conditions qu'il jugera convenables, à utiliser plusieurs installations ou dispositifs différents."

M. Cardarelli regrette ne pas pouvoir adhérer ni à l'une ni à l'autre rédaction proposée.

„La longueur d'onde est un élément essentiel dans la radiotélégraphie et sa valeur a une très grande importance sur le résultat pratique du système. Il est bien connu qu'une majeure longueur d'onde agit avantageusement sur la transmission en vue d'écarter certains obstacles.

La radiotélégraphie multiple est essentiellement fondée sur la possibilité d'émettre des ondes de différente longueur. La longueur d'onde a aussi bien une influence sur la perte d'énergie comme il a été démontré par Hertz.

Il n'est donc pas possible de fixer d'avance une longueur d'onde dont le choix peut être un élément de perfectionnement d'un système."

Un échange d'opinions se produit sur la question de l'adoption de longueurs normales d'onde et de leur publication. Vu l'importance de cette question M. le Président propose de renvoyer la discussion jusqu'à la séance prochaine qui aura lieu le 7 août.

Clôture de la séance à 1 h. 10 m.

Le Président:

Sydow.

Les Secrétaires:

Fuhrken. Lindow. Pfitzner. Oberlaender.

Troisième séance.

7 août 1903.

La séance est ouverte à 10 h. 10 m. par M. le Président.

Sont présents tous les membres de la conférence qui assistaient à la première séance.

M. le Président informe la conférence qu'il a reçu différents imprimés se rapportant à la télégraphie sans fil. Il donne ensuite communication d'une lettre du conseil municipal de Ninove (Belgique), relative à la prétendue priorité de l'invention de la télégraphie sans fil, réclamée par M. Bobone.

Le procès-verbal de la première séance est approuvé par l'assemblée sauf les corrections réclamées par différents délégués.

Les amendements cités ci-après ont été distribués par le Bureau.

Ce sont:

1° Proposition de la Délégation française pour une autre rédaction du § 1er de l'article Ier de l'avant-projet allemand.

„Les stations côtières de télégraphie sans fil ouvertes au service télégraphique privé avec les navires en mer sont tenues de recevoir ou

de transmettre les télégrammes émanant ou à destination de ces navires sans distinction des systèmes de télégraphie sans fil employés par ces derniers."

2° Proposition de la Marine austro-hongroise pour une autre rédaction du § 2 de l'article Ier de l'avant-projet allemand.

„Chacun des pays contractants publiera chaque année une liste des stations radiographiques, établies sur son territoire, indiquant tous les détails nécessaires au sujet de ces stations et notamment la longueur des ondes appliquées par ces stations à la correspondance avec les navires en mer.

Sous réserve de l'approbation des Gouvernements intéressés, des ententes particulières peuvent être établies sur l'emploi des longueurs d'onde spéciales qui, alors, n'ont pas besoin d'être publiées."

3° Proposition de la Délégation française pour une autre rédaction du § 2 de l'article Ier de l'avant-projet allemand.

„Les États contractants devront rendre publics tous les renseignements techniques de nature à faciliter et à accélérer les communications entre ces stations côtières et les navires en mer.

Toutefois, chacun des Gouvernements contractants pourra autoriser les stations situées sur son territoire, et cela dans les conditions qu'il jugera convenables, à utiliser plusieurs installations ou dispositifs différents."

La proposition des délégués de la France, citée sous 1°, a été acceptée déjà dans la deuxième séance.

M. Sellner, délégué de la Marine Austro-Hongroise, déclare qu'il retire la proposition de la Marine austro-hongroise en faveur de celle des délégués de la France, citée sous N° 3.

M. Grillo, délégué de l'Italie, dit que la délégation italienne n'est pas à même d'accepter la proposition française parce que le Gouvernement italien, par son arrangement avec M. Marconi, s'est engagé à tenir secrets les détails des installations de cet inventeur.

Sur la demande de M. le Président, s'il n'existe pas une clause dans ce contrat qui réserve au Gouvernement italien le droit de modifier cet arrangement au cas d'une entente internationale, M. Solari, délégué de l'Italie, répond que cette réserve ne se rapporte qu'aux échanges avec d'autres systèmes mais qu'elle n'est pas comprise dans l'article qui concerne le secret des installations. Sur la nouvelle demande de M. le Président, à quelle date cet arrangement ait été conclu, M. Solari répond que la date de signature du contrat est le 16 février 1903, mais que la date du premier arrangement qui assure le secret des détails, est celle d'une lettre du 8 février 1901.

M. Gavey, délégué de la Grande-Bretagne, fait la déclaration suivante:

„Jusqu'à présent nous avons considéré les systèmes dits syntoniques, mais il nous semble qu'il faut aussi tenir compte de systèmes non syn-

tonisés qui, à mon avis, sont actuellement employés dans la plupart des stations côtières. Les systèmes radiotélégraphiques se divisent en trois catégories, savoir:

a) les systèmes non syntonisés où, pour chaque étincelle de la bobine d'induction, est émise une seule onde effective d'une longueur déterminée par la hauteur de l'antenne. On peut recevoir les signaux produits par ces ondes à des distances variables selon les récepteurs non syntonisés ou syntonisés et au moyen d'antennes de longueur variable.

b) les systèmes partiellement syntonisés où chaque étincelle produit toute une gerbe d'ondes d'une longueur déterminée par les détails des installations. Pour recevoir les signaux à la distance maximum, il est nécessaire de se servir d'un récepteur en syntonisation aussi parfaite que possible avec le transmetteur. Mais en outre il est possible de recevoir les signaux à des distances variables par des récepteurs non syntonisés ou même par des récepteurs partiellement syntonisés sans que cette syntonisation réponde à la station transmettrice.

c) les systèmes avec une syntonisation absolue ou subtile qui, à l'heure qu'il est, n'ont pas encore fait leurs preuves.

Il serait donc utile de publier pour les stations côtières non syntonisées:

a) le fait qu'elles ne sont pas syntonisées,

b) la portée ordinaire.

Je recommande de remplacer l'expression ‚portée maximum' par ‚portée ordinaire' parce que, pour atteindre ce maximum, il est nécessaire que les appareils transmetteurs et récepteurs soient dans un état parfait et que l'on ne peut compter sur les appareils tellement perfectionnés à bord des navires ayant peut-être achevés un long voyage.

Quant aux systèmes partiellement syntonisés il serait nécessaire de publier:

a) la longeur des ondes,

b) la portée ordinaire,

c) les éléments techniques nécessaires à syntoniser les récepteurs.

Dans l'intérêt des inventeurs il ne conviendrait pas de procéder à une publication plus détaillée.

M. le Président, en se ralliant aux vues de M. Gavey, propose de remplacer les mots „portée maximum" par „portée ordinaire" dans la question subsidiaire *d* du § 2, art. Ier. Il y aurait lieu, en outre, d'exiger seulement la publication des éléments nécessaires pour entrer en communication avec la station côtière (question subsidiaire *b*).

La délégation française adhère à cette manière de voir.

M. le Président résume les résultats de la discussion par les points suivants:

1° d'aprés l'avis général il n'est pas l'intention de restreindre les systèmes d'une syntonisation subtile ou exclusive;

2° il ne convient pas de publier les détails techniques des stations côtières, mais

3° pour alléger l'échange entre différents systèmes seulement les longueurs d'onde, la portée ordinaire et le nom du système;

4° quant à la question des longueurs d'onde, il serait désirable de recommander certaines longueurs entre lesquelles chaque station choisirait, tout en accordant aux stations la faculté de s'entendre sur des longueurs spéciales et aussi de changer ces longueurs.

M. le Président constate qu'il est déjà tenu compte de ces propositions par la proposition française, mais que l'Italie n'est pas à même d'y adhérer à moins d'une entente préalable avec M. Marconi.

M. Grillo désire exprimer la bonne volonté de son Gouvernement de coopérer à une entente internationale, mais que, pour le moment, il n'est pas à même de donner une adhésion définitive pour les raisons indiquées. Toutefois il espère qu'il sera possible d'aplanir les obstacles.

M. le Président constate que tous les délégués considèrent la proposition française comme une base utile pour les échanges entre divers systèmes, abstraction faite de la réserve de l'Italie.

On passe à la discussion du § 3, concernant les taxes à percevoir.

M. Schrader, délégué de l'Allemagne, commence la discussion par l'exposé suivant:

La concurrence libre entre les différents systèmes qui fait le principal objet de nos délibérations ne sera possible que sous la condition que les taxes pour l'échange des radiotélégrammes soient raisonnables et que chaque station obtienne une bonification conforme à ses prestations.

Si donc la taxe totale est perçue, soit sur l'expéditeur du télégramme, soit sur le destinataire, il faut qu'elle soit partagée entre la station côtière et la station à bord du navire, et, par conséquent, les stations différentes se doivent réciproquement compte des taxes perçues par chacune d'elles, sauf le cas naturellement où les stations appartiennent à la même administration ou à la même compagnie. Il appartiendra à une conférence ultérieure de fixer les détails de ce décompte, qui d'ailleurs s'effectuera sans difficulté, si, quant aux télégrammes provenant des navires, les fréteurs sont responsables du payement aux propriétaires des stations côtières.

Le partage des taxes par moitié entre les stations, comme le prévoit le § 3 de l'article Ier, est seulement une proposition préliminaire qui peut être amendée, si un autre mode de répartition est préférable.

Quant au montant des taxes à percevoir, il n'est pas la tâche de cette conférence de le fixer. Toutefois il importe de poser le principe que les taxes soient approuvées par l'État, sur le territoire duquel est située la station côtière. Ce contrôle officiel qui naturellement écartera toute rigueur inutile, est indispensable pour éviter qu'un entrepreneur, en percevant des taxes exorbitantes, ne rende pas difficile—au point de s'assurer une sorte de monopole pour son système—la communication avec les stations qui font emploi d'un autre système.

Or la délégation allemande est d'avis que la taxe applicable pour la correspondance d'une station côtière doit être toujours la même, n'importe qu'il s'agisse du trafic dans la direction de la côte au navire ou du trafic de la direction inverse et sans égard au système de télégraphie sans fil adopté par le navire.

Conformément à l'usage actuel il sera utile de percevoir la taxe toujours sur l'expéditeur; le procédé, c'est vrai, n'est pas en accord avec le règlement du service de la télégraphie internationale qui prescrit, pour les télégrammes à échanger avec les navires en mer par l'intermédiaire des sémaphores, que la taxe est perçue sur l'expéditeur pour les télégrammes adressés aux navires et sur le destinataire pour les télégrammes provenant des navires. Mais je crois qne l'échange radiographique aille dans la plupart des cas dans la direction du navire à la côte, que les intérêts de l'expéditeur à bord des navires soient prépondérants et que, par conséquent, un refus de réception et du payement des taxes soit évité, autant que possible, si c'est toujours l'expéditeur qui doit payer la taxe.

Quant aux taxes je puis donc résumer l'opinion de la délégation allemande en ces termes:

1° Les taxes seront raisonnables et elles seront partagées entre les stations côtières et les postes à bord des navires de manière à aussrer à chaque station une bonification conforme à ses prestations.

2° La taxe applicable à toutes les correspondances échangées entre une station côtière et les navires en mer sera toujours la même quel que soit le système de télégraphie sans fil adopté par le navire et n'importe qu'il s'agisse d'une dépêche provenant de la côte ou provenant d'un navire.

3° Le tarif de la station côtière servira de norme pour les taxes à appliquer aux échanges entre ces stations et les navires.

4° La taxe sera toujours perçue sur l'expéditeur."

M. Bordelongue, délégué de la France, dit que, dans l'esprit de son Gouvernement, les idées directrices qui doivent inspirer la conférence dans l'examen des diverses questions, sont les suivantes:

1° en ce qui concerne les appareils, il convient d'admettre la libre concurrence en évitant soigneusement toute mesure qui aboutirait à la constitution d'un monopole quelconque, parce que seule la libre concurrence, dans les application d'une science qui est encore tout à fait à ses débuts, peut favoriser le progrès et l'initiative des inventeurs;

2° pour ce qui concerne les tarifs, il est nécessaire de fixer les bases essentielles d'un régime de manière à garantir le public de tous les pays contre les exigences abusives des entrepreneurs.

On peut s'inspirer déjà, pour la fixation de la base des tarifs, des règles qui ont présidé à l'organisation de la transmission des télégrammes sémaphoriques, laquelle offre une grande analogie avec les applications du

nouveau système parce que toutes deux visent l'échange de la correspondance entre la côte et les navires en mer. La seule différence à considérer c'est la portée beaucoup plus grande des transmissions par la télégraphie sans fil et par conséquent la valeur beaucoup plus grande aussi du service rendu.

Actuellement, la taxe sémaphorique comprend deux éléments: la taxe du parcours maritime qui est constante et arrêtée uniformément dans le régime international à 1 franc et la taxe du parcours sur le réseau télégraphique général qui est fixé suivant les règles établies par l'Union télégraphique.

La taxe du parcours maritime, qui a été rendue uniforme dans un but de simplification devenu possible par le nombre relativement peu élevé des télégrammes sémaphoriques, ne répondrait pas aux conditions particulières des échanges au moyen de la télégraphie sans fil.

La délégation française est d'avis que la taxation par mot doit être la base de l'organisation des tarifs applicables aux correspondances transmises par le nouveau système.

Elle pense également que la taxe totale devrait être divisée en deux parties:

1° la taxe revenant à la station côtière,

2° la taxe revenant au navire, celle-ci devant être fixée par le Gouvernement dont ce navire porte le pavillon.

Elle est enfin d'avis qu'un maximum doit être établi afin que, sur les navires passagers notamment, le prix de la correspondance ne soit pas soumis à l'arbitraire des exploitants. Il n'entre pas, bien entendu, dans les idées de la délégation française de déterminer aujourd'hui la quotité de ce maximum. Trop d'éléments entrent en jeu qui doivent faire l'objet d'une étude approfondie. Ce sera l'œuvre d'une conférence ultérieure. Mais le principe du maximum doit être dès maintenant considéré.

M. le Président est d'avis que la proposition d'un maximum représente une amélioration des propositions allemandes. Quant à la composition des taxes, l'Allemagne ne manquera pas de tenir compte des vues de la majorité.

M. Bilibine, délégué de la Russie, adhère à la proposition française.

M. Calvo y Juana, délégué de l'Espagne, se rallie également en général à cette proposition, toutefois il est d'avis qu'il convient de proportionner la taxe pour chaque station à sa portée moyenne.

M. Bordelongue fait remarquer que la proposition de la délégation française se concilie parfaitement avec la remarque, d'ailleurs très juste, présentée par l'honorable délégué de l'Espagne.

La fixation de la taxe par mot et celle d'un maximum n'empêcheront pas d'examiner, en temps opportun, s'il n'y aura pas lieu de graduer la taxe et de la rendre proportionnelle à la distance.

M. von Stibral, délégué de l'Autriche, se rallie également à la proposition française, toutefois il fait ressortir les difficultés qui résulteraient

d'un décompte entre des pays qui, à l'heure qu'il est, ne sont pas en rapport immédiat.

M. Grillo émet l'opinion que dans la plupart des cas l'intérêt d'une communication radiographique est plutôt du côté du navire et qu'il convient par conséquent de mettre à la charge du navire la plus grande part de la taxe. Il soumet à l'appréciation de l'assemblée l'idée s'il ne conviendrait pas de disposer que la taxe pour les télégrammes envoyés par le navire soit perçue à bord par le représentant de la société qui est propriétaire des appareils et celle pour les télégrammes transmis de la station côtière par le Gouvernement ou la société desquels la station dépend, en réglant toutefois le montant de la taxe de façon que la station terrestre soit en quelque manière compensée de l'infériorité des recettes qui lui reviennent pour le petit nombre de télégrammes qu'elle a à expédier, tandis que son travail de réception est bien plus lourd.—Quoi qu'il en soit, cette matière sera utilement abandonnée à une entente ultérieure.

M. Sins, délégué de la France, estime que la quote-part de taxe revenant aux stations côtières pourrait être moins élevée que celle des navires, les stations côtières devant généralement être exploitées par des États qui, en vue de l'intérêt général peuvent faire des sacrifices que les compagnies d'exploitation des postes à bord des navires pourraient avoir quelque difficulté à consentir.

Quant à la perception de la taxe et à sa répartition entre les entreprises d'exploitation et les offices intéressés, il pense que la taxe devrait être, dans tous les cas, perçue sur l'expéditeur, étant entendu que les entreprises d'exploitation à bord des navires seront en compte avec les administrations des États dont ces navires portent le pavillon, celles-ci ayant à assurer le partage des taxes avec les autres offices qui ont participé à la transmission d'après le mode en usage actuellement pour les télégrammes acheminés sur le réseau télégraphique international terrestre.

M. Lamb, délégué de la Grande-Bretagne, émet sur cette matière l'avis suivant:

„Nous entendons que la question de la répartition du taux de la taxe reste ouverte, mais à présent nous sommes portés à l'opinion que la juste part appartenant à la station côtière devrait être bien supérieure à celle appartenant au navire. Quant aux observations de l'honorable délégué de la France, il propose, si je ne me trompe pas, de laisser au Gouvernement du pays où la station côtière se trouve, le droit de fixer le taux de la taxe. Alors il ne serait pas juste de laisser au Gouvernement dont dépend le navire en cause, le droit de fixer de son propre droit la taxe ou la partie de cette taxe applicable aux communications avec la côte sans l'assentiment de l'autre Gouvernement.“

M. Bordelongue insiste sur la nécessité de fixer un maximum pour garantir les intérêts du public qui, à bord des navires, peut avoir à faire usage du nouveau mode de correspondance.

L'application régulière de ce principe ne peut être assurée que par le Gouvernement dont le navire porte le pavillon.

Pour répondre, d'ailleurs, à une observation de M. le délégué de l'Italie, M. Bordelongue fait observer à nouveau qu'il ne s'agit pas, à l'heure actuelle, de fixer la quotité de ce maximum. Certains pensent qu'il devra être plus élevé pour la taxe du bord que pour celle de la station côtière. D'autres peuvent penser le contraire.

Un poste placé sur un navire reviendra certainement à un prix moindre que celui de l'installation d'une station côtière. Il entrera dans les frais généraux de la construction du bateau comme amélioration de l'outillage. Le navire pourra, par l'emploi de la télégraphie sans fil pour son usage exclusif, récupérer très rapidement les frais d'établissement.

La station côtière, de son côte aura un échange télégraphique plus actif que le navire isolé, ce qui peut également justifier une taxe moindre. Quoiqu'il en soit la question de quotité et de répartition des taxes n'est pas mûre et paraît devoir être ajournée.

W. Cardarelli, délégué de l'Italie, s'associe à l'avis émis par son collègue britannique d'après lequel il conviendrait de laisser aux stations la plus grande part des taxes. En outre il est, avec l'Allemagne, de l'avis qu'il conviendrait de percevoir les taxes sur l'expéditeur.

M. le Président résume la situation de la discussion:

„Je constate qu'il y a un assentiment général sur les points suivants:

1° la taxe sera raisonnable;

2° il faut fixer un maximum;

3° la taxe se composera de deux éléments: d'une quote-part afférente à la station côtière, et d'une autre quote-part acquise au navire;

4° la taxe sera prélevée sur l'expéditeur;

5° la question de la comptabilité reste réservée à une conférence ultérieure."

M. Bordelongue demande que la rédaction du texte du § 3 soit réservée à la prochaine séance. La délégation française se propose, en effet, de soumettre une proposition.

M. le Président est d'accord et ajourne la discussion jusqu'à la prochaine séance.

En passant à la question de l'indemnisation, il invite les délégués de la Grande-Bretagne et de l'Italie à exposer leurs manières de voir à ce sujet.

M. Grillo juge indispensable d'accorder une indemnisation aux compagnies qui ont à présent des stations en fonction; mais, en raison de l'importance de la matière, il demande le renvoi de la discussion à une séance ultérieure. Cependant, pour répondre à l'invitation de M. le Président, il indique les raisons principales qui parlent en faveur d'une indemnité. Ces raisons sont d'abord d'un ordre technique, attendu qu'il convient de protéger les appareils d'un fonctionnement supérieur contre ceux de moindre qualité. D'un autre côté les engagements pris avec

M. Marconi imposent au Gouvernement italien le devoir d'écarter tout préjudice aux intérêts de l'inventeur.

M. Lamb écarte pour son pays toute obligation d'une indemnisation proprement dite. Néanmoins il soulève la question s'il ne serait pas préférable de concéder aux compagnies qui ont établi des stations, le droit de demander une surtaxe sur tout télégramme échangé avec un navire muni d'un appareil d'un système différent.

M. Wachenfeld, délégué de l'Allemagne, relève les points de vue relatifs à l'indemnisation:

„Pour qu'on puisse mieux juger de la question d'indemnité, il faudra que ceux qui plaident en faveur d'une indemnisation s'expliquent sur les trois points:

1° Quel sont les dommages pour lesquels il faut payer une indemnité?

2° Qui est-ce qui doit payer l'indemnité?

3° De quelle manière doit être effectuée cette indemnité?

„Si un État juge à propos d'accorder une indemnité aux stations existant sur son territoire parce qu'elles sons tenues de communiquer dorénavant avec des navires munis d'appareils d'un autre système, c'est une affaire qui ne regarde que lui. Quant à l'Allemagne, il n'existe au point de vue du droit aucun titre à dommages-intérêts pour les stations existantes; au point de vue de l'équité nous ne voyons non plus aucune raison d'accorder une indemnité quelconque attendu que, à notre avis, il n'y a pas de préjudice. A ce qu'il paraît il n'y a que l'Italie qui, au point de vue du droit, se trouve dans une situation différente, s'étant obligée, par contrat vis-à-vis de la compagnie Marconi, à ne laisser communiquer ses stations côtières qu'avec des navires munis d'appareils de cette compagnie. Pour les États qui n'ont aucun engagement envers celle-ci, je ne vois pas de motif qui puisse les engager à lui accorder une indemnité; elle n'est pas lésée dans ses droits si l'on réclame la libre concurrence entre tous les systèmes; ce qu'elle perdra, c'est l'espoir de se créer un monopole. D'autre part, si elle ouvre ses stations à la communication avec les navires qui ont des appareils d'un autre système à bord elle en tirera sans doute des avantages parce que l'échange des correspondances à ses stations va augmenter. Si la compagnie Marconi voulait persister à refuser d'entrer en communication avec les appareils d'un autre système, les États qui n'ont pas l'intention de se soumettre à ces exigences tendant à la monopolisation d'un seul système, seraient vraisemblablement forcés à prendre des mesures répressives. En outre il est à remarquer qu'il y a actuellement dans les différents pays un nombre assez considérable de stations côtières qui sont pourvues d'appareils autres que ceux de Marconi, et qui pourraient, du même droit prétendre à une indemnité."

M. Grillo se rallie à l'avis émis par M. Lamb en jugeant que ses propositions fournissent la meilleure solution de la matière en question par l'établissement d'une surtaxe. A cette occasion l'orateur, en revenant sur l'affaire Marconi, croit devoir ajouter que le contrat du Gouvernement

italien n'a pas été conclu avec la Compagnie Marconi mais avec l'inventeur lui-même. Les pourparlers étaient déjà engagés depuis plusieurs années et avancés à tel point qu'à l'arrivée de l'invitation de l'Allemagne relative à la conférence présente, le Gouvernement italien se trouvait lié définitivement. C'est pour faire hommage à l'invitation du Gouvernement allemand que la clause, réservant au Gouvernement italien le droit de demander dans certains cas des modifications, a été insérée dans le contrat.

M. le Président remercie M. Grillo de cette déclaration.

M. Lamb ne juge pas réalisable d'indemniser les compagnies existantes par les États contractants selon la proposition de M. Grillo. Il recommande encore une fois la perception d'une surtaxe en faveur des compagnies à indemniser et fait ressortir, sur une demande, qu'il faudrait indemniser, non seulement les stations existantes, mais aussi les systèmes en fonction.

Sur la demande de M. Grillo la question est renvoyée à la prochaine séance, et l'assemblée est invitée à passer à la discussion de l'amendement de l'Allemagne de la teneur suivante:

„Amendements allemands
relatifs aux ‚Matériaux pour la discussion' de la conférence préliminaire concernant la télégraphie sans fil:

1° Insérer après I, § 3, le nouveau paragraphe suivant:

§ 4. Le service des stations radiotélégraphiques doit être organisé, autant que possible, de manière à ne pas troubler le service d'autres stations radiotélégraphiques.

2° Insérer dans l'article IV après les mots ‚Les dispositions de la présente Convention,' les mots:

‚sauf la disposition de l'article Ier, § 4.'

3° Insérer après l'article IV le nouvel article suivant:

‚V. Les stations terrestres, dont la sphère d'action électrique s'étend jusqu'à la côte, seront soumises aux dispositions de l'article Ier, § 4.'

4° L'article V obtient par conséquent le N° VI."

M. Schrader, délégué de l'Allemagne, donne les éclaircissements suivants en vue du nouveau § 4:

„Le nouveau § 4 — amendement de la délégation allemande — ne pose qu'une règle générale pour l'organisation du service; vu la nature propre de la télégraphie sans fil et vu que les ondes hertziennes se propagent dans toutes les directions et que par conséquent le fonctionnement simultané non interrompu de plusieurs stations voisines n'est qu'un problème insuffisamment résolu, il faut poser le principe que les administrations s'engagent à prendre toutes les dispositions pour limiter autant que possible les perturbations réciproques. Les détails de ces dispositions font partie du règlement d'exécution qui nous occupera dans l'article III."

M. Gavey demande si les systèmes existants sans syntonisation seraient prohibés et si seulement des stations avec syntonie seraient admises.

M. le Président est d'avis qu'il n'y aurait pas lieu de supprimer les premiers systèmes et qu'il n'entre pas dans le sens du nouveau § 4 de prononcer une pareille interdiction. Après cette interprétation, M. Gavey déclare sous toutes réserves l'adhésion de la Grande-Bretagne au nouveau § 4.

M. Solari, délégué de l'Italie, est d'avis qu'il serait hasardé de donner dès à présent les détails des dispositions qui devraient faire partie d'un règlement d'exécution pour un service qui n'a pas encore été expérimenté par aucun Gouvernement sur des bases commerciales. Mais il faudrait soumettre la question à un examen pratique dans les différents pays par des commissions spéciales qui auraient à étudier les questions à formuler par cette conférence.

M. Bordelongue est d'accord en principe, mais demande que la discussion des détails soit remise à la prochaine séance.

M. le Président se rallie à cette demande, remet à la même séance la discussion des amendements allemands précités et passe à la discussion de l'article II. Il invite MM. les délégués à faire connaître l'état de législation de leurs pays relative à l'exploitation de la télégraphie sans fil.

M. Bordelongue dit qu'en France la télégraphie sans fil, étant un monopole de l'État, le Gouvernement est en mesure d'imposer telles conditions qu'il jugera utiles.

M. Wachenfeld dit qu'en Allemagne la loi constituant le monopole des télégraphes s'applique également aux établissements de radiographie; cependant, cette loi prévoit certaines exceptions de moindre importance, par exemple en faveur des services de transport, et il sera peut-être nécessaire d'écarter ces exceptions pour les installations radiographiques. Dans ce but une loi spéciale est en préparation.

M. von Stibral fait connaître que la législation autrichienne assure à l'État le monopole de la télégraphie sans fil.

M. Waterbury, au nom de la délégation des États-Unis, fait la déclaration suivante:

„I desire to state, on behalf of the delegation from the United States, that, when the invitation extended by the German Government was received, the subject matter was carefully considered by our Government.

The power of the United States to impose conditions upon the operation of any wireless telegraph system which conveys messages to or from the United States is absolute. Such transmission has been repeatedly held by the Supreme Court of the United States to be commerce, and, therefore, within the plenary and paramount authority of the Federal Government to regulate, whether such commerce be foreign or interstate.“

(„Lorsque l'invitation du Gouvernement allemand pour cette conférence a été reçue, la matière a été examinée avec beaucoup de soin par notre Gouvernement. Le pouvoir du Gouvernement des États-Unis d'imposer des conditions pour l'exploitation d'un système de télégraphie sans fil quelconque qui porte les télégrammes originaires ou à destination des Etats-

Unis est absolu. Une telle transmission a été toujours considérée par la Cour Suprême des États-Unis comme une espèce de commerce et par conséquent sous l'autorité plénière et suprême du gouvernement fédéral et sujette à sa réglementation, n'importe qu'il s'agisse de communications avec l'étranger ou entre les différents États de la fédération.")

M. Salewsky, délégué de la Russie, expose qu'en Russie la télégraphie sans fil appartient au monopole de l'État. Le Gouvernement n'admettrait aucune compagnie privée à l'exploitation d'un tel service.

M. Calvo y Juana dit:

„La législation en Espagne assure seulement à l'administration des télégraphes l'exploitation de ses lignes télégraphiques.

Le Gouvernement espagnol est tout à fait libre d'imposer à toutes les compagnies de télégraphie sans fil le cahier des charges qu'il croira le mieux et il n'a fait aucune convention sur ce sujet avec personne."

M. Hollós, délégué de la Hongrie, déclare qu'en Hongrie également la télégraphie sans fil appartient au monopole de l'État. Toutefois il existe une exception pour les installations ne dépassant pas les limites d'un immeuble. Cette exception, cependant, est d'une moindre importance pour la télégraphie sans fil, parce qu'une autre disposition prescrit généralement qu'aucune installation de l'espèce ne devrait déranger d'autres services télégraphiques.

M. Lamb revient sur sa déclaration antérieure, d'après laquelle la radiotélégraphie est un monopole de l'État, mais restreint aux communications qui ne franchissent pas les frontières du Royaume.

M. le Président, après ces exposés, procède à l'ouverture de la discussion sur l'article II.

M. Bordelongue propose de donner à cet article la teneur suivante:

„Au cas où les États contractants n'exploiteraient pas tout ou partie des postes placés sur leur territoire, ils s'engagent à ne concéder ou autoriser la construction ou l'exploitation des stations de télégraphie sans fil à des particuliers ou à des sociétés que si les uns et les autres prennent l'engagement de se conformer dans toutes leurs stations aux dispositions énoncées dans la présente convention et dans le règlement qu'elle prévoit."

Les délégations allemande et autrichienne aimeraient se rallier à la teneur modifiée de la proposition française.

M. Lamb fait l'objection que d'après la proposition française la Grande-Bretagne serait obligée de ne pas admettre dans le Royaume-Uni telles compagnies qui ont conclu dans les colonies des contrats non concordant avec les principes d'une convention internationale. Une longue discussion s'engage à cet égard; d'abord on met au clair que la Grande-Bretagne ne saurait être obligée d'adhérer à une pareille convention autant pour le Royaume-Uni que pour les colonies indépendantes, mais que l'adhésion pourrait être restreinte aussi à une partie de ces pays. A la suite la question est discutée, si dans la partie de l'Empire adhérant à la convention, on admettrait des systèmes admis dans d'autres parties de l'Empire non-

adhérentes en vertu d'arrangements spéciaux qui ne concordent pas avec les stipulations internationales.

Cette discussion n'aboutissant pas, la question est réservée à la prochaine séance qui est fixée au 10 août.

Clôture de la séance à 1 h. soir.

Le Président:
Sydow.

Les Secrétaires:
Fuhrken. Lindow. Pfitzner. Oberlaender.

Quatrième Séance.
10 août 1903.

La séance est ouverte à 10 h. 10 m. par M. le Président.

Sont présents tous les membres de la Conférence qui assistaient à la première séance.

Sur la demande de M. le Président les procès-verbaux de la deuxième et de la troisième séance sont approuvés par l'assemblée sauf les corrections à signaler, le cas échéant, par les délégués intéressés.

Aux termes du résumé de M. le Président la séance actuelle s'occupera des matières suivantes, réservées par la dernière séance, savoir les questions concernant.

1° l'indemnisation,
2° les taxes à appliquer,
3° les perturbations, et
4° l'exclusion des compagnies, employant des systèmes différents, dans les pays qui ont des colonies avec gouvernement autonome.

M. Solari, délégué d'Italie, donne, au sujet de l'indemnisation, lecture de la déclaration suivante:

„Avant d'entrer dans la discussion des taxes et des indemnités je vais faire quelques remarques qui me semblent nécessaires: En vue des affirmations faites par l'honorable délégué de l'Allemagne dans la dernière séance, qu'aucun préjudice, selon son avis, ne serait apporté à personne par un service cumulatif sans distinction des systèmes employés, je dois faire la déclaration suivante, qui fournira, j'espère bien, quelques éléments pour le meilleur jugement de la question. En admettant l'existence d'un système beaucoup plus développé que les autres, on devrait lui faire un arrangement spécial afin de le dédommager des pertes auxquelles il serait exposé s'il était mis en communication avec les autres systèmes.

L'étude impartiale de l'histoire de la radiotélégraphie démontre en effet qu'en 1896 Guilielmo Marconi réussit, le premier entre tous, à transmettre des télégrammes par les oscillations hertziennes. En 1898 il réussit à résoudre le problème de la syntonie électrique pour les transmissions à des distances considérables, pour lesquelles il a pris le premier brevet. En 1900 il exécutait les merveilleuses expériences de radio-

télégraphie multiple entre Poole et S.-Catérine. Pendant l'hiver de l'an 1901 il a vaincu la difficulté (déclarée insurmontable par plusieurs savants) représentée par la courbure de la terre par ses importantes expériences à une distance de 300 km. entre le Cap Lizard et S.-Catérine. En hiver de l'an 1902 il exécutait, avec le succès le plus satisfaisant, ses premiers essais de transmissions à grande distance (3000 km.) entre Poldhu et S. Johns et entre Poldhu et le paquebot ‚Philadelphia.' En automne de l'an 1902 il réussit à démontrer la possibilité d'envoyer des radiotélégrammes à travers les plus hautes montagnes de l'Europe, les Alpes, en transmettant des dépêches de Poldhu au vaisseau de guerre 'Carlo Alberto,' qui se trouvait dans la Méditerrannée. Pour ce qui touche ces dernières expériences je puis déclarer que moi-même, au matin du 9 septembre, j'ai reçu tout près de Cagliari sans aucune faute une dépêche de 40 mots adressée à S. M. le Roi d'Italie.

Le 20 décembre 1902 Marconi, en présence de tout l'État-Major du 'Carlo Alberto,' franchit pour la première fois la grande distance qui existe entre le Canada et l'Angleterre en envoyant des radiotélégrammes de longueurs différentes aux plus grandes personnalités officielles de l'Europe de sa connaissance.

Le 28 mars 1903 il exécutait ses expériences splendides de syntonie à la station de Poldhu en présence du Prof. Fleming en démontrant la possibilité de rendre, au moyen de ses appareils, tout à fait indépendante la station d'un navire voisin jusqu'à une distance de 10 km. tandis que la station de Poldhu envoyait des télégrammes avec l'énergie employée pour la transmission transatlantique.

Il y a plusieurs années dejà que Marconi fait successivement des inventions par des expériences très géniales mais très laborieuses et très coûteuses en rendant son système toujours plus pratique et plus efficace.

En outre pendant des années il a dirigé lui-même, en risquant quelques fois même sa vie, l'installation de 45 stations côtières de puissance ordinaire dans différentes parties du monde, de 3 stations de grande puissance en Angleterre, au Canada, aux États-Unis—de plusieurs stations à bord des navires pour les marines de guerre italienne, anglaise, française et américaine, de 32 stations pour des bateaux de commerce des principales compagnies du monde. Je puis affirmer que j'ai vu personnellement ses appareils établis sur les navires du N. D. Lloyd, de la Hamburg-Amerika Linie, de la Compagnie transatlantique française, de la Cunard Line, de la American Line. Il est parvenu à une grande régularité au service radiotélégraphique, et tout cela, Messieurs, est le fruit d'expériences qui sont, à mon avis, entre les plus hardies qu'on ait faites au monde. D'autres découvertes, aussi bien utiles à l'humanité, ont été développées dans les cabinets de physique, mais ces expériences ont demandé le courage de choisir un cabinet de physique qui occupe l'espace existant entre le vieux et le nouveau monde.

Il me semble donc, qu'on ne devrait pas accorder le même traitement à celui qui a exécuté une œuvre de génie, avec courage, en défiant dangers et sacrifices, avec la dépense de plusieurs millions et à celui qui

cherche à en profiter sans avoir apporté de sa part qu'un petit contribut au progrès de l'invention.

C'est la réponse que je donne à l'honorable délégué de l'Allemagne qui a demandé quel dommage serait apporté par un service cumulatif sans distinction du système employé. Au sujet des taxes et de l'indemnité, la délégation italienne, tout en exprimant la bonne volonté pour arriver à une entente générale, garde l'opinion que pour la mise en fonction cumulative de plusieurs systèmes il serait nécessaire que tous ces systèmes fournissent la même garantie pour la portée et l'efficacité du service."

M. le Président dit que le Gouvernement allemand est d'avis que tous les droits d'inventeur provenant des brevets resteront réservés aux inventeurs et aux compagnies exploitant ces brevets. Il en résulte que ces brevets donneront le profit légitime à l'inventeur. D'autre part la compagnie Marconi a déjà grand profit du développement actuel de la télégraphie par fil et, en outre, la libre concurrence développera et augmentera le trafic entre les stations côtières et les navires de manière à augmenter aussi le bénéfice des compagnies Marconi en multipliant la quote-part afférente aux stations.

M. Lamb, délégué de la Grande-Bretagne, se prononce dans les termes suivants sur la question d'une surtaxe à percevoir par les stations côtières des systèmes existants:

„Nous désirons faire ressortir encore une fois que nous ne reconnaissons pas pour une compagnie quelconque un droit à indemnisation de la part du Gouvernement du pays où cette compagnie a établi des stations; nous n'admettons pas davantage un arrangement applicable à une seule compagnie ou à un seul pays. L'honorable délégué de l'Allemagne a fait observer, dans la troisième séance, ‚qu'il y a actuellement dans les différents pays un nombre assez considérable de stations côtières qui sont pourvues d'appareils autres que ceux de Marconi et qui pourraient du même droit faire prétendre à une indemnité.' Nous reconnaissons qu'il serait juste que, si une compagnie quelconque avait le droit de faire percevoir une surtaxe, les autres compagnies qui lui pourraient faire concurrence jouissent du même privilège. Si l'on veut développer une invention par la voie de la libre concurrence, il est logique de laisser les exploitations privées libres de faire des arrangements de nature à protéger leurs intérêts financiers.

Quant aux administrations qui se seraient décidées d'exploiter la télégraphie sans fil comme service d'État, il n'est pas nécessaire peut-être d'attacher la même importance aux résultats financiers de l'exploitation: elles doivent considérer en premier lieu l'intérêt du public, mais il pourrait être désirable même pour ces administrations d'accorder une rémunération pour les communications échangées avec des navires munis d'appareils d'un autre système que celui de leur pays. S'il n'y avait pas une compagnie d'exploitation dont il serait nécessaire de considérer la situation, on pourrait toujours demander une rémunération spéciale pour le bénéfice d'un inventeur national ou des fabricants nationaux de l'invention. Pour la Grande-Bretagne

c'est en premier lieu une question d'exploitation, mais il faut aussi reconnaître que la compagnie qui chez nous exploite l'invention fabrique aussi les appareils par suite d'un arrangement avec l'inventeur."

M. Bordelongue, délégué de la France, s'exprime ainsi:

„Messieurs, M. le Lieutenant de Vaisseau Solari, délégué de l'Italie, vient de nous faire un exposé brillant des expériences de M. Marconi. Je dois déclarer, tout d'abord, qu'il ne peut entrer dans la pensée de personne et encore moins dans la pensé des représentants de l'administration française, qui a facilité à cet inventeur des essais sur son territoire, de diminuer le mérite de M. Marconi et la valeur de ses remarquables travaux.

Mais la question qui se pose est tout autre; c'est celle de la légitimité d'une indemnité à lui accorder par les États qui adhéreront à la nouvelle Union pour l'exploitation de la télégraphie sans fil. Je suis un peu embarrassé pour traiter ce sujet étant données les phases successives et diverses par lesquelles il a passé depuis le début de cette conférence. Aussi n'est-il peut-être pas inutile, pour préciser l'état actuel de cette proposition, de rappeler ses origines et les modifications rapides qu'elle a subies dans la forme de sa présentation. Au surplus, ceux de nos collègues qui l'ont préconisée, ne la formulent plus nettement et semblent s'excuser même d'en maintenir le principe.

L'honorable M. Lamb qui en était partisan, a fait des réserves quand il s'est agi de préciser. A la page 8 du procès-verbal de la troisième séance je lis, en effet, ‚qu'il écarte pour son pays toute obligation d'une indemnisation proprement dite.'

Depuis il s'est rallié au système d'une compensation par voie de surtaxe spéciale. Il vient, à l'instant, de confirmer de nouveau ces réserves et cette conclusion.

Il reconnaît donc qu'une indemnité d'exploitation ne se justifie pas et il se borne à recommander la protection d'un système d'appareils. Qu'il me permette de lui dire qu'une pareille attitude me semble contraire au principe britannique de la libre concurrence et au souci de progrès qui doit seul inspirer les décisions des États.

M. le lieutenant de vaisseau Solari, dans le mémoire qu'il a présenté à la première séance, non seulement ne sollicitait pas d'indemnité d'exploitation pour la compagnie Marconi, mais il cesse aujourd'hui de demander le monopole définitif et il se borne à conseiller l'adoption temporaire des appareils de cet inventeur. Cette formule est, à notre avis, la plus évidente condamnation de la décision qu'il conseille. Quel intérêt avons-nous, en effet, à décourager les initiatives, à arrêter le progrès à son début et à rendre, sous le couvert de l'adoption temporaire d'un système, plus difficile encore, dans quelques années, la solution de la question?

M. l'amiral Grillo a déjà fait, d'ailleurs, quant à lui, une concession importante. Il a abandonné complèment le principe d'une indemnité d'exploitation et il s'est rallié à la formule de la délégation britannique, c'est-à-dire à l'application d'une surtaxe. On admet ainsi, d'une façon

péremptoire, que l'allocation d'une indemnité d'exploitation n'est pas équitable. Pourquoi, du reste, indemniserait-on une compagnie qui, d'elle-même, indique qu'elle renonce aux bénéfices de la correspondance générale par son intention de limiter l'usage de ses stations aux seuls messages transmis par les postes pourvus de ses appareils? On cherche donc uniquement à favoriser des dispositifs déjà protégés par brevets.

Or, où nous conduirait une pareille doctrine? Si la faveur demandée par la délégation italienne était accordée à certaine catégorie d'appareils, on créerait, avec une valeur d'équité bien autrement grande, la nécessité d'indemniser les autres inventeurs dont les systèmes seraient, de ce fait, exclus.

Nous souhaitons que la délégation britannique ne persiste pas dans l'idée d'établir une surtaxe pour l'emploi d'appareils déterminés. Ce serait, nous le répétons, contraire aux principes qui ont toujours dirigé l'administration anglaise et à ceux de l'Union télégraphique dont elle est adhérente. N'y aurait-il pas à craindre, au surplus, que cette taxe ne pesât surtout sur ses nationaux, à moins que, ce que je n'ose supposer, elle ne soit inégalement appliquée?

Il est encore un point que la délégation française désire souligner. M. l'amiral Grillo a dit que son Gouvernement était lié par contrat à la compagnie Marconi, mais qu'il avait cependant obtenu la modification de certains articles, après la décision de réunir la conférence actuelle, pour faire hommage à l'invitation du Gouvernement allemand. Si cette considération de haute courtoisie a suffi pour amener une compagnie privée, déjà en possession d'un traité, à accepter le changement de certaines stipulations, il est à présumer que cette même compagnie, sur la nouvelle insistance du Gouvernement italien aussi bien que pour déférer au vœu des futurs États contractants et à l'intérêt général qui n'est pas distinct de son intérêt propre, ne se refusera à quelques modifications nouvelles.

Un des représentants de l'Italie, le distingué Lieutenant de vaisseau Solari, a commencé, dans la deuxième séance, l'exposé des desiderata de la délégation italienne par une phrase que je me plais à retenir comme la conclusion même de mes observations:

> ‚Le Gouvernement italien, guidé par le désir de protéger impartialement l'intérêt public sans accorder de privilèges etc. etc.'

Cette attitude me semble la meilleure, elle peut servir de base à nos travaux et je crois que chacun de nous a intérêt à l'observer."

M. Grillo, délégué de l'Italie, donne quelques explications sur la portée du contrat conclu entre le Gouvernement italien et M. Marconi. „La clause contenant la réserve mentionée déjà à plusieurs reprises ne modifie pas essentiellement le contrat; la teneur de la dite clause est que, pour le cas où la conférence aurait formulé des vœux, le Gouvernement italien se réserve le droit de modifier en quelques points les stipulations, mais sous condition que ces modifications soient acceptées par l'inventeur. On a dit que la libre concurrence est nécessaire pour assurer le développe-

ment de la radiotélégraphie et que par conséquent aucun système spécial n'a droit à une indemnisation; mais il faut remarquer que pour l'échange de communications internationales il est nécessaire que les différents systèmes aient entre eux des rapports, ce qui peut avoir pour résultat qu'ils viennent à se gêner mutuellement: on ne peut pas considérer chaque système comme indépendant comme dans la libre concurrence ordinaire entre industriels, et voilà pourquoi je crois qu'il est équitable de donner un dédommagement à ceux qui par le fait de devoir correspondre avec les autres ont à subir un amoindrissement dans la qualité de leur fonctionnement et dans leur liberté d'action. — C'est pour cette raison principalement que nous croyons qu'il serait plus avantageux pour le public d'admettre de commun accord seulement le système le plus perfectionné; mais en tout cas si nous obligeons le système qui est reconnu comme le plus avancé à communiquer avec les autres il faut lui donner une compensation. — Il est vrai, que la Compagnie Marconi exerce déjà une espèce de monopole et elle est induite à le maintenir pour sauvegarder ses intérêts; mais aussi il est juste reconnaître qu'elle ne pourrait être forcée de subir des impositions qui réduisent sa liberté d'exploitation sans lui accorder une indemnisation. On ne peut donc contester son droit de poser ses conditions.

M. le Président demande aux délégations italienne et anglaise, de quelle manière il y aurait lieu de payer cette indemnité.

M. Cardarelli, délégué de l'Italie, répond qu'il convient soit de partager les taxes perçues de manière à rémunérer dans une mesure équitable la compagnie dont le système est le plus développé, soit de fixer un droit supplémentaire („Royalty") en faveur de ladite compagnie.

M. le Président constate qu'à l'avis des représentants des Gouvernements anglais et italien le dédommagement réclamé ne consistera pas en une indemnité proprement dite, payable par les Gouvernements, mais en une surtaxe à percevoir sur le public. La question s'impose, de quelle manière cette surtaxe doit être établie, vu qu'on a exigé d'accorder une quote-part plus élevée aux stations côtières, une quote-part moins élevée pour les stations à bord et de fixer un maximum.

M. Lamb fait remarquer que dans une séance antérieure il s'était rallié à la proposition allemande d'après laquelle le taux de la taxe devrait être fixé ou approuvé par le Gouvernement du pays où se trouve la station côtière; mais après réflexion il est arrivé à l'opinion qu'il serait préférable de séparer les deux éléments du taux de la taxe et de faire fixer par les Gouvernements la taxe des stations côtières en laissant aux navires toute liberté d'établir leurs quotes-parts, sauf consentement du Gouvernement dont ils portent le pavillon. En outre il suggère que la surtaxe ne dépasse pas 50% de la taxe normale.

M. Cardarelli s'associe aux idées de M. Lamb.

M. le Président invites les délégations à se prononcer sur la question si, en principe, les Gouvernements sont disposés à accorder une indemnité quelconque.

M. von Stibral, délégué de l'Autriche, ne voit aucune obligation d'indemniser, vu qu'il n'y a pas eu un dommage réel, mais le cas de „lucre cessant."

M. Calvo y Juana, délégué de l'Espagne, fait observer qu'aujourd'hui, il est vrai, une compagnie prétend posséder le meilleur système, mais peut-être demain une autre compagnie prendra-t-elle la première place et demandera-t-elle aussi une indemnisation. Dans tous les cas la délégation espagnole est d'avis qu'il n'y a pas lieu d'accorder une indemnité du tout.

M. Barber, délégué des États-Unis, déclare qu'il ne voit pas de raisons pour accorder une indemnité à des systèmes existants.

M. Grillo ne saurait accepter l'opinion, émise par M. le délégué autrichien, tendant à nier l'existence d'un dommage réel chez les compagnies en cause. A l'avis de l'orateur les intérêts de ces compagnies seraient gravement entravés par l'admission de sociétés dont le système est d'une valeur inférieure.

M. Hollós, délégué de la Hongrie, fait remarquer qu'il ne s'agit pas ici d'un maximum, mais de divers maxima et qu'on peut échelonner les taxes suivant l'énergie émise par la station transmettrice.

Quant à la grande portée, il ne croit pas que ce point soit une question de premier ordre qui puisse justifier une indemnité.

M. Salewsky, délégué de la Russie, se rallie à la proposition française.

M. le Président constate que d'après l'avis de la plupart des délégations il ne convient pas d'entraver la libre concurrence en accordant des indemnités aux compagnies. Les délégués de l'Angleterre et de l'Italie sont d'avis qu'on ne saurait se dispenser d'une indemnité sous forme d'une surtaxe au bénéfice des systèmes existants de bon fonctionnement.

Il propose ensuite de passer à la discussion sur la question des perturbations, savoir de l'article Ier § 4 de l'amendement allemand (No. 1° et 3°, p. 37, du procès-verbal de la troisième séance).

M. Lamb fait la déclaration suivante:

„Nous comprenons que la proposition de l'Allemagne ne fait que consacrer le principe général que chaque État doit autant que possible avoir égard à la situation des autres États. Dans les propositions qui ont été formulées par le Gouvernement allemand avant notre réunion il n'est pas fait mention de la question de l'empêchement des perturbations et nous ne pensons pas qu'il soit possible d'arrêter des mesures définitives à ce sujet dans la présente conférence."

M. Bordelongue adhère à la proposition allemande. Il est d'avis que cette proposition ne peut que favoriser la bonne exécution du service international au moyen de la télégraphie sans fil.

Pour donner satisfaction, dans la mesure de l'intérêt général, à la délégation de la Grande-Bretagne, il proposerait de remplacer les mots „le service des stations" du nouveau § 4 par les mots „le service d'exploitation des stations."

Après l'adhésion de la délégation italienne à cette intercalation un échange de vues s'engage entre MM. Hollós (Hongrie), Bordelongue (France) et M. le Président sur la signification des expressions „stations publiques“ et „stations privées.“ M. le Président termine cet échange en faisant observer que le règlement doit porter aussi sur les stations terrestres que pourraient influencer les stations côtières et les stations à bord.

M. Hollós fait remarquer que les perturbations de la part des stations privées devraient aussi être évitées autant que possible.

M. Boulanger, délégué de la France, en revenant sur la teneur de l'article Ier, émet l'avis de faire disparaître l'expression „station terrestre“ pour éviter des malentendus vis-à-vis de l'expression „station côtière.“ Il propose de donner à l'article Ier une explication de ce terme en y insérant la phrase suivante:

„Est appelée „station côtière“ toute station fixe dont le champ d'action s'étend sur la mer.“

M. le Président fait observer qu'en attendant la proposition française l'on devrait pourtant maintenir la proposition allemande sous 3° pour protéger aussi les stations côtières contre les perturbations de la part des stations terrestres, mais que, pour donner satisfaction à la remarque du délégué de la Hongrie quant aux perturbations émanant des stations à bord, il vaudrait mieux remplacer les mots „les stations terrestres“ dans la proposition allemande pas les mots „toutes les stations.“

Après une remarque de M. Grillo qui préférerait l'expression „station à l'intérieur“ au lieu de „stations terrestres,“ M. le Président constate que tous les délégués sont d'accord sur le principe; pour satisfaire aux vœux émis il propose de rédiger l'article Ier de la manière suivante:

„Les stations côtières de la télégraphie sans fil sont soumises aux dispositions suivantes.

Est appelée station côtière toute station fixe dont le champ d'action s'étend sur la mer.“

Ensuite un nouvel article V sera intercalé après l'article IV dont le texte suit:

„Seront soumises aux dispositions de l'article Ier § 4 toutes les stations dont le champ d'action électrique s'étend aux stations côtières.“

La discussion passe à la proposition de la France (rédaction du § 3 de l'article Ier) concernant les taxes, conçue dans les termes suivants:

„Proposition de la France.

Article Ier § 3.

Les États contractants déclarent adopter, pour la fixation des tarifs applicables au trafic télégraphique, échangé entre les navires en mer et le réseau télégraphique international, les bases ci-après:

La taxe totale à percevoir pour ce trafic est établie par mot; elle comprend, comme pour les télégrammes sémaphoriques:

a) la taxe relative au parcours terrestre dont le montant est celui fixé par le règlement télégraphique international en vigueur, annexé à la Convention de St. Pétersbourg;

b) la taxe afférente au parcours maritime.

Cette dernière est, comme la précédente, fixée d'après le nombre de mots, ce nombre de mots étant compté conformément au règlement télégraphique international visé au paragraphe (a) ci-dessus.

Elle comprend:

1° une taxe appelée „taxe de la station côtière“ qui revient à la dite station;

2° une taxe appelée „taxe du bord“ qui revient à la station installée sur le navire.

La taxe de la station côtière est subordonnée à l'approbation de l'État sur le territoire duquel cette station est établie, et celle du bord, à l'approbation de l'État dont le navire porte le pavillon.

Chacune de ces deux taxes ne peut dépasser un maximum qui est fixé par le règlement prévu à l'article III.“

M. Sellner, délégué de l'Autriche, fait observer qu'il conviendrait de régler les taxes pour le trafic entre les navires.

M. le Président répond que la conférence a décidé au commencement de ses travaux qu'il serait préférable de se borner au trafic entre les côtes et les navires au large; cet avis est partagé par la délégation française.

M. Lamb ne saurait accepter la dernière phrase de la proposition française, tendant à faire fixer un maximum de taxe par le règlement, prévu par l'article III.

M. Bordelongue réplique que l'indication d'un maximum ne saurait effrayer les compagnies et ne peut porter aucun préjudice aux intérêts de l'Angleterre. Sa proposition a pour but unique de parer à toute exagération de tarif.

M. le Président, pour satisfaire la délégation anglaise, propose de dire à la fin de la proposition „chacune de ces deux taxes doit être raisonnable.“

M. Bordelongue persiste sur la nécessité qu'il y a à son avis, de fixer un maximum.

Il faut que le public soit persuadé que la première conférence, qui s'est réunie pour réglementer l'emploi de la télégraphie sans fil, a eu la préoccupation de sauvegarder ses intérêts comme en matière de correspondance télégraphique ordinaire.

La quotité de ce maximum pourra être déterminée, il le répète, en tenant compte également des charges d'exploitation. Mais il faut une sauvegarde contre l'arbitraire des compagnies privées. Il ne faut pas, par exemple, que le montant de la perception soit dépendant de la valeur du service

rendu en dehors de la transmission du message, mais qu'il représente seulement la rémunération équitable du travail télégraphique.

S'il n'en était pas ainsi, un exploitant privé pourrait, par exemple, spéculer sur les demandes de secours des navires et trouver raisonnable de demander un chiffre exorbitant, un million par exemple, si un télégramme qu'il a transmis a permis d'assurer le sauvetage d'un paquebot d'une valeur de 10 millions.

M. Mackay, délégué de la Grande-Bretagne, fait remarquer que les taxes varient en général avec les distances. Assurément il serait bien difficile d'établir une échelle convenable des taxes par rapport aux distances, et ayant égard à cette difficulté on ne pourrait guère fixer un maximum qui répondrait à tous les besoins. Ce n'est qu'après de longues années que l'on est parvenu à fixer les taxes normales en certains cas pour les télégrammes internationaux et même aujourd'hui il existe beaucoup d'exceptions, de sorte que les taxes sont fixées, souvent ou même ordinairement, non par l'Union télégraphique, mais en vertu d'un commun accord entre les Gouvernements intéressés. A l'heure qu'il est on n'a pas encore fait des expériences suffisantes pour bien connaître les frais du service radiotélégraphique. Il serait nécessaire de laisser aux Gouvernements intéressés le droit de fixer ou d'approuver la taxe qui leur paraîtrait convenable sans aucune restriction; et si un Gouvernement quelconque demandait une rémunération excessive, soit pour la station côtière, soit pour le navire en cause, ce qui n'est pas à prévoir, un équilibre s'établirait, comme dans le service télégraphique, par la nécessité de la part des deux Gouvernements intéressés d'arriver à un accord quant à une taxe totale qui répondrait aux intérêts en cause et aux besoins du public.

M. Cardarelli croit qu'il n'est pas possible de traiter dès à présent la question des taxes; toutefois, à son avis, on ne peut pas accepter le principe que chaque station (côtière ou à bord) retienne les taxes perçues, parce que ce sont toujours les navires qui ont plus souvent le besoin de communiquer avec les stations côtières et il peut même arriver qu'une station côtière n'ait aucune occasion d'envoyer des depêches aux navires tandis qu'elle supporte une plus forte dépense pour l'installation et pour la réception. Il faudrait donc partager les taxes perçues en proportion des services rendus.

M. Bordelongue est d'avis que ces remarques proviennent d'une confusion à l'égard des expressions „maximum“ et „quotité“; un maximum n'empêcherait point les États d'établir des taxes raisonnables et de les partager d'une manière raisonnable; c'est seulement l'intérêt du public qui nous a dicté cette proposition.

M. Calvo y Juana adhère à l'établissement d'un maximum mais seulement d'un maximum pour la portée ordinaire des stations.

M. Mackay est d'avis que si l'on ne tient pas compte des distances, il faudrait fixer un maximum excessif afin de pourvoir au cas, par exemple, où un télégramme pourrait être échangé avec un navire au milieu de l'océan

atlantique. Il revient sur les arguments d'où il ressort qu'il serait prématuré d'essayer à fixer un maximum dès à présent. En tout cas il déclare ne pas pouvoir adhérer à l'établissement d'un maximum, mais il serait préparé à se rallier à la proposition de M. le Président qui empêcherait toute exagération de prix.

Après une discussion entre les délégués de la Grande-Bretagne, de l'Italie, de la France et de M. le Président à l'égard du maximum et de la comptabilité, M. Mackay déclare l'adhésion de la délégation britannique à ce que la taxe doive rémunérer seulement le service radiographique.

M. Bordelongue veut bien admettre que la question du maximum soit renvoyée à une prochaine conférence, mais avec les réserves qu'il a indiquées.

Aprés une discussion prolongée sur la question du maximum M. le Président constate qu'il y a entente générale sur les points suivants:

1° la taxe ne dépassera pas l'équité;

2° elle représentera la rémunération du travail radiotélégraphique.

Quant au maximum la plupart des délégations sont d'avis qu'il faut renvoyer la question à une conférence ultérieure.

M. Lamb insiste que la tâche de cette conférence ultérieure sera seulement du considérer la question d'un maximum au lieu de fixer le maximum.

M. le Président, en tenant compte de cette observation, propose d'accepter la modification désirée par M. Lamb mais d'insérer en même temps au procès-verbal que les Gouvernements de la France, de la Russie, des États-Unis, de l'Espagne, de la Hongrie et de l'Allemagne jugent utile et nécessaire de fixer un maximum dans le règlement. D'autre part M. Lamb déclare que la délégation britannique persiste à croire qu'il n'est ni utile ni nécessaire de fixer un tel maximum.

M. le Président passe à la discussion de l'article II, rédaction nouvelle proposée par la France, savoir:

„Proposition de la France."

Article II.

„Si les États contractants concèdent à des particuliers ou à des sociétés la construction ou l'exploitation de stations côtières, ils s'engagent à ne concéder ou à n'autoriser la construction ou l'exploitation de ces stations que si les pétitionnaires prennent l'engagement de se conformer dans toutes leurs stations aux dispositions énoncées dans la présente convention et dans le règlement qu'elle prévoit."

D'après l'avis de M. le Président il s'agit d'abord de la situation des pays qui ont des colonies autonomes et appelle l'attention de MM. les délégués sur ce que la fin du procès-verbal de la troisième séance résume déjà l'état de la discussion antérieure. Il y a unanimité qu'un tel pays a le droit d'adhérer à la convention, soit pour la totalité de son territoire, soit pour une partie seulement. Il ne s'agit donc à présent

que de discuter l'autre question, si dans la partie de l'Empire adhérant à la convention, on admettrait des systèmes admis dans d'autres parties de l'Empire non adhérentes en vertu d'arrangements spéciaux non concordants.

M. Bordelongue prie d'abord de biffer dans la proposition française les mots „la construction ou" derrière les mots „à des sociétés." Ensuite il déclare que l'idée de la nouvelle rédaction est de donner au public le maximum des avantages et un service perfectionné. Les dispositions ne limitent pas les possibilités des compagnies de recevoir des télégrammes mais au contraire on les oblige à en accepter davantage. L'acceptation de la proposition française serait donc dans l'intérêt même des compagnies.

M. Lamb est d'avis que les dispositions formulées par la France sont trop excessives et que la délégation britannique n'est pas à même de les accepter. Sur la question de M. le Président „jusqu'à quelle limite extrême le Gouvernement anglais pourrait aller", M. Lamb déclare que, dans la réserve déjà faite, la délégation britannique adhérerait à la rédaction proposée à condition de l'insertion des mots" sur le territoire des États contractants" après les mots „dans toutes leurs stations."

M. Bordelongue fait remarquer que la rédaction proposée veut empêcher le boycottage des navires de telle ou telle nation par certaines compagnies.

M. v. Stibral, délégué de l'Autriche, émet l'opinion que l'intercalation anglaise équivaudrait à la suppression de l'article II.

M. Barber, délégué des États-Unis, fait la déclaration suivante en langue anglaise:

„While recognising the importance of such action by countries having entire control of telegraphic installations, yet the delegates from the U. S. are not in a position either to discuss nor to agree to such limitation of the free development of wireless telegraphy as is suggested by M. Bordelongue. It is also impossible for the delegates from the U. S. to consider the question of an indemnity or of a surtaxe."

(„Nous avons la notion parfaite de l'importance d'une telle action par les États qui ont le contrôle entier des installations de télégraphie, mais les délégués des États-Unis ne sont pas en position ni de discuter ni de donner leur adhésion à des limitations de concurrence libre de télégraphie sans fil comme a été suggéré par la résolution de M. Bordelongue. Il est aussi impossible pour des délégués des États-Unis de considérer la question d'une indemnité ou d'une surtaxe.")

M. Grillo s'exprime dans les termes suivants:

„La délégation de l'Italie tient à exprimer le vif désir qu'elle aurait d'adhérer sans réserve à la proposition de l'article II, soit dans le texte proposé par l'Allemagne, soit dans celui, modifié, présenté par la délégation française; mals eu égard aux conditions spéciales qui sont faites à notre Gouvernement par les conventions établies avec M. Marconi, elle doit se borner à déclarer que de la part de notre Gouvernement on fera le possible pour introduire dans nos conventions des modifications dans

le sens proposé par l'article II, en admettant naturellement les dédommagements ou compensations dont nous avons déjà fait parole au bénéfice des compagnies qui se trouveraient obligées à accepter des restrictions dans leur exploitation."

M. Salewski, délégué de la Russie, se rallie à la proposition française. M. le Président invite MM. les délégués des Etats-Unis à préciser la situation de leur législation vis-à-vis de la dite proposition.

Il résulte de la discussion qui s'engage à la suite que toutes les stations dans les États-Unis sont obligées de se soumettre aux lois de la fédération qui prescrivent d'accepter de tout le monde des messages payés. Ceux qui n'observent pas cette loi s'exposeront à des poursuites en dommages-intérêts ou même à des poursuites suivant le code pénal. Mais la législation des États-Unis n'est pas à même d'imposer des conditions autres que celles des lois générales. En vue de l'état actuel de la législation la délégation ne peut accepter la disposition imposant aux entrepreneurs l'obligation de se soumettre aux conditions internationales aussi dans un pays non adhérent. Ce ne serait possible que dans le cas où le Gouvernement aurait adhéré à une convention internationale prescrivant pareilles conditions. Toutefois la délégation n'a pas reçu d'instructions si les autres autorités compétentes des États-Unis seraient disposées à consentir à une telle convention internationale.

D'après le résumé de M. le Président la situation est comme suit:

Les États-Unis sont empêchés par leur législation actuelle d'adhérer à la proposition français. L'Angleterre veut restreindre les dispositions aux stations sur le territoire des États contractants. L'Italie veut faire de son mieux d'amener l'adhésion de son Gouvernement par une modification du contrat avec Marconi mais sous réserve d'indemnisation. Les autres Gouvernements acceptent la dite proposition.

On passe alors à la délibération sur l'article III, prévoyant un règlement international.

M. Bonomo, délégué de l'Italie, donne lecture du mémoire annexé au présent procès-verbal.

Clôture de la séance à 1 h. 20 soir. Séance prochaine, mercredi, 12 août à 10 h. matin.

Le Président:

Sydow.

Les Secrétaires:

Fuhrken. Lindow. Pfitzner. Oberlaender.

Annexe au procès-verbal de la 4e séance.

Mémoire de M. Bonomo, délégué de l'Italie.

Observations sur les inconvénients qui se présenteraient le plus souvent dans le service radiotélegraphique international dans le cas, le plus favorable, de l'adoption d'un seul système pour les communications entre les navires et les stations côtières.

Dans la proposition III, il est question d'un règlement exécutif pour le service entre les stations côtières et celles à bord des navires.

A ce sujet j'ai la plus sincère conviction que dans l'état actuel de la télégraphie sans fil il n'est pas possible de songer à poser des règles qui puissent assurer sérieusement l'échange des communications avec des appareils de différents systèmes. Même en faisant abstraction des raisons commerciales, les raisons d'ordre technique et d'organisation sont, à mon avis, évidentes, mais je crois qu'il n'y a pas lieu de les expliquer encore, mon collègue, M. Solari, ayant traité déjà la question dans la 2me séance à propos d'un autre sujet.

Je veux seulement rappeler ici que le plus grand empêchement pour établir un service international est la grande différence entre la portée des divers systèmes; on peut imaginer des organisations locales avec chaque système, mais non des organisations internationales. Toutefois les organisations locales et commerciales pourraient souvent causer des troubles sérieux aux communications internationales, troubles qu'on ne réussirait pas à éviter facilement avec une règlementation, vu l'état actuel des divers systèmes.

Il est nécessaire, en effet, de reconnaître que, pour une égale portée, chacun des systèmes employés exigerait, en général, une énergie différente pour qu'il lui soit possible de communiquer avec les autres. Même en admettant qu'il y eût égalité dans ces deux éléments, portée et énergie, un autre élément empêcherait la régularité des communications, c'est la différence de longueur d'onde.

Il y a encore à noter que d'autres irrégularités peuvent résulter de la différence de sensibilité des appareils, de la différence des méthodes, de leur régularisation et du degré différent d'expérience du personnel qui les fait fonctionner.

L'instruction du personnel, vous le savez, Messieurs, mieux que moi, est un facteur d'une importance capitale dans l'emploi d'un appareil quelconque. Dans la télégraphie sans fil la différence d'expérience du personnel fait varier le rendement des appareils entre des limites très larges, et peut même rendre nulles les communications.

De toutes ces causes d'irrégularité il s'ensuit, que pour qu'il soit possible, je répète, à l'état actuel de la science et de la technique, d'établir des règles pour organiser le service radiotélégraphique international, il est nécessaire que le système adopté soit un seul, que le ton des appareils soit unique et que la portée maximum soit fixée.

Le système et ces données seraient naturellement de temps en temps changés par des nouvelles conférences internationales.

C'est seulement en admettant que ces conditions soient satisfaites que je me propose de soumettre à votre examen quelques observations à cet égard.

L'expérience acquise pendant les dernières années sur le fonctionnement du service radiotélégraphique dans la Marine Royale italienne me permet d'affirmer que, non seulement il est possible de rédiger un règlement pour les communications, mais que cela est indispensable pour assurer en tous les cas le service. Pour les communications internationales jusqu'à la portée maximum, le règlement devrait être observé par tout le monde, autant par les stations commerciales que par les stations militaires; à ce sujet je proposerais de simplifier la teneur de l'article III de la manière suivante:

„Un règlement d'exécution établira des règles uniformes pour le service radiotélégraphique international."

En effet chaque nation pourra établir des règles pour ses stations côtières militaires et pour les navires de sa marine de guerre. Or ces règles doivent être telles qu'elles ne puissent entraver en aucun point les communications internationales; à cet égard j'accepte non seulement l'amendement proposé par le Gouvernement allemand pour l'article IV, mais je propose que la rédaction soit plus large afin d'y comprendre les postes des navires de guerre, savoir:

„Chaque nation peut établir pour ses stations côtières militaires et pour les navires de guerre les dispositions qu'elle croit utiles, pourvu qu'elles ne soient pas de nature à déranger les communications internationales."

Ainsi je proposerais que l'article V de l'avant-projet allemand soit ainsi modifié:

„Les Pays qui n'ont point adhéré à la présente Convention et qui entendent se servir de la télégraphie sans fil, doivent accepter intégralement les règles internationales adoptées."

Un exemple expliquera mieux notre idée. Deux stations côtières de la même nation ou de deux nations différentes A et B, éloignées d'environ 130 milles, sont en communication entre elles; les navires d'une force navale F sont au mouillage dans une localité voisine à B et font des signaux entre eux avec des longueurs d'onde égales ou presque égales aux ondes internationales ou avec une énergie excessive pour les distances qui les séparent, ou bien encore avec des appareils non syntonisés et sans se préoccuper des communications entre A et B. Presque certainement la réception de B sera illisible et cela arrivera également si F se sert d'un ton bien différent, si la distance du poste B est très petite à cause de l'excédent d'énergie rayonnée par les navires F. Il faut remarquer que nous avons acquis une grande confiance dans les dispositions syntones, après les expériences concluantes exécutées à la Spezia avec des appareils Marconi du modèle 1901. Dans ces expériences nous avons forcé, pour ainsi dire, le système à transmettre simultanément des messages à la station de S. Vito (Spezia) par celle de Livourne (70 km.) avec des

appareils de moindre énergie, et par celle de Palmaria (6 km.) avec des appareils deux fois plus puissants. Les deux messages ont été reçus très nettement à S. Vito.

Mais si ces expériences nous ont confirmé l'indépendance des tons dont l'on se sert chez nous, même dans des conditions très défavorables, elles nous ont démontré d'autre part que de même que pour les autres phénomènes de résonance, la syntonie radiotélégrapique a une limite minimum de distance. A cet égard nous sommes d'avis qu'il n'existe pas de syntonie absolue, de même qu'en acoustique on ne peut produire des phénomènes très nets si les énergies ne sont proportionées aux distances et si les tons sont très rapprochés. Voilà donc un cas dans lequel les navires de guerre, par exemple, ne devraient pas se servir, pour les communications entre eux et à de petites distances, que de tons de très petite portée et de puissance très limitée; ou bien, s'ils se serviraient de tons égaux ou approchant du ton international, il faudrait employer des énergies très limitées.

Encore un autre exemple: Le poste d'un navire A désire communiquer avec un poste côtier B qui se trouve dans le rayon des communications internationales en dépendance des accords établis; le navive A appelle tout de suite B sans s'assurer d'abord si celui-ci (ou une autre station) est déjà en communication avec d'autres. Naturellement les communications de ces dernières seront plus ou moins dérangées selon les distances respectives de A. Si au contraire le navire avant de commencer la transmission s'était assuré avec son récepteur, mis à la plus grande sensibilité, (ou avec un détecteur) qu'aucune communication n'était en train, et avait attendu la fin des communications pour commencer la sienne, l'inconvénient aurait été évité. Cependant, si les deux stations en communication s'étaient servies de tons très différents du ton international, l'appel du navire n'aurait pas probablement dérangé les autres communications et aurait été entendu par la station appelée. Il serait donc très utile de se servir pour les autres communications de tons très différents du ton international; il serait aussi nécessaire de ne pas commencer une transmission si le récepteur du ton avec lequel on veut transmettre accuse des communications en cours.

Nous pourrions citer beaucoup d'autres cas semblables pour prouver la nécessité d'établir au plus vite des règles précises et claires pour tous les cas qui peuvent arriver. Dans la pratique nous avons constaté les faits prévus dans les exemples cités et encore beaucoup d'autres et nous avons aussi pu expérimenter l'influence bienfaisante de règles précises et absolues.

Un règlement pour les communications radiotélégraphiques internationales pourrait se composer, à notre avis, des parties suivantes:

1. Prescriptions relatives aux appareils, à leur portée, à l'espèce de tons à donner aux stations côtières commerciales et aux navires, à la réduction de l'énergie employée selon les distances, et à la convenance ou moins de se servir des appareils lorsque les navires de commerce sont au mouillage.

Règles pour établir les limites d'emploi des appareils radiotélégraphiques dans les stations côtières militaires et sur les navires de guerre. Règles

pour la concession aux privés d'établir des postes, soit pour les navires, soit pour les côtes.

Règles pour annoncer l'entrée en service des nouvelles stations, soit sur les côtes, soit sur les navires.

Devoir des neutres en temps de guerre envers les belligérants et vice-versa.

Règles pour la taxation des radiotélégrammes, pour leur convoyement du bord jusqu'à destination et vice-versa.

II. Règles et signaux pour les communications réciproques.

III. Liste des postes côtiers commerciaux et des navires, ouverts au service, avec leurs nominatif, listes de ceux assignés aux diférentes forces navales et aux sociétés de navigation qui ont des navires munis d'appareils.

Je ne crois pas devoir examiner en détail les arguments relatifs à la première partie puisque on en a déjà parlé assez et puisque nous estimons que leurs complet développement dépendra des décisions qu'on prendra dans les conférences suivantes. Cependant je croirais pouvoir formuler quelques propositions qui pourraient faire part de la première partie du règlement.

Tous les navires de commerce devraient être munis seulement d'appareils approuvés par une commission internationale, ayant une portée maximum établie et un seul ton. Les appareils non syntonisés devraient être exclus de l'usage dans toutes les stations.

A moins d'impérieuses circonstances, les navires ne devraient communiquer avec les stations côtières à des distances supérieures aux trois quarts de la portée maximum des appareils adoptés pour les communications internationales, dans le but d'augmenter la sûreté des communications.

Les navires qui devraient communiquer avec les stations côtières de commerce devraient toujours le faire avec la station plus proche.

Les communications radiotélégraphiques internationales devant être réservées aux navires en mer, les navires au mouillage devraient se servir, à moins de circonstances spéciales, des moyens ordinaires pour communiquer avec la terre, afin d'éviter les dérangements des stations côtières rapprochées.

Les navires de guerre réunis dans un port ou en mer en formation à petite distance, devraient réduire au minimum l'énergie rayonnée. Dans l'état actuel par exemple on devrait user des antennes simples très courtes et des antennes très petites.

Il serait aussi désirable qu'on se servit pour ces communications à distance très réduite de tons spéciaux à fort amortissement et d'une portée très faible.

Seulement les navires avec pavillon-amiral ou les commandants les plus anciens, présents dans une rade, pourraient faire des communications avec les stations côtières commerciales.

Ayant brièvement exposé ces propositions, qui devraient être complétées par beaucoup d'autres, nous désirons, dès à présent, vous soumettre quelques autres observations qui regardent spécialement les arguments de

la deuxième partie et que je juge utiles à son temps pour l'étude des règles qui pourraient en partie assurer le fonctionnement du service radio-télégraphique, sans prétendre d'avoir vidé complètement cette importante question.

Permettez-moi seulement d'ajouter qu'en raison de notre expérience, l'on peut affirmer que l'alphabet Morse, les signes de ponctuation, ceux pour les services spéciaux, etc., les règles en vigueur pour la transmission, le convoyement et la reception des dépêches ordinaires, n'ont pas besoin, en général, d'être changés.

Cela serait, d'après mon opinion, un grand avantage, puisqu'il permettrait de tirer parti du personnel télégraphiste actuel en lui donnant une instruction convenable sur le maniement des nouveaux appareils.

Le caractère spécial du nouveau système et aussi, disons-le, sa nuisible largeur d'emploi, réclament toutefois une légère retouche à quelque signal, et l'addition d'autres règles.

Il serait peu sérieux d'établir aujourd'hui des règles taxatives et précises pour les communications internationales. Cela n'est pas le but de cette conférence, et d'ailleurs les appareils sont dans un état de perfectionnement successif et rapide qui certainement nous exposerait à voir renverser demain ce que nous avons bâti aujourd'hui. Ces autres observations que nous allons soumettre à votre bienveillant examen ne doivent être considérées que comme point de départ dans une des discussions qui formeraient objet de la seconde conférence. Et pourtant ces observations sont les suivantes:

La vitesse de transmission devrait être fixée dans des limites moyennes. Avec la réception ordinaire écrite on peut admettre que cette vitesse soit poussée jusqu'à 60 ou 80 lettres et même encore au delà par minute première; mais en général près de cette limite supérieure on trouve quelque difficulté dans la réception auriculaire au téléphone; à moins qu'on dispose d'excellents opérateurs. Dans tous les cas une vélocité de transmission inférieure à 30 lettres par minute pourrait rendre difficile l'interprétation de la zone écrite surtout dans le cas où il y eût des décharges atmosphériques (ce que les Français appellent parasites).

D'autre côté une sensible différence entre le rythme des transmissions serait certainement une cause pour empêcher l'établissement des communications; cela concourt encore une fois à démontrer la nécessité de l'uniformité de l'organisation et de l'instruction du personnel.

Si une transmission commencée est interrompue sans des signaux conventionels, celui qui reçoit pourrait penser tout de suite à un mauvais fonctionnement de son récepteur et en gâterait probablement le réglage.

Si une station A en communication avec une station B commencerait à appeler cette dernière, sans se préoccuper s'il y a d'autres communications en cours, elle troublerait ces communications et ne réussirait pas à se faire entendre. Il s'en suit qu'il est nécessaire d'établir quelques règles pour le commencement et la suite des communications, règles dont il serait impossible de garantir l'efficacité pour les différentes portées et les différentes organisations.

Dans notre marine, qui a en usage un seul système et une seule organisation, nous avons expérimenté avec succès la norme suivante:

Si une station A doit faire une transmission à une autre, B, elle règle son récepteur avec la plus grande sensibilité afin de bien s'assurer qu'il n'y a pas d'autres transmissions en cours entre les autres postes.

Au cas affirmatif A ne doit commencer à transmettre que lorsque son récepteur n'accuse plus aucune réception. En ce dernier cas elle transmet, par exemple, 4 ou 5 „entendu" (• • • ▬ •) suivis pour 4 ou 5 fois de l'appel.

Si après 5 minutes, par exemple, A n'avait reçu point de réponse, elle répèterait l'appel et ainsi de suite jusqu'à ce qu'elle ait obtenu la réponse.

La station appelée, B., répondrait, par exemple, en transmettant trois fois „entendu" (• • • ▬ •) suivi trois fois de son propre appel, c'est-à-dire de son propre nominatif suivi par celui de A. Cette dernière, une fois la réponse reçue, ferait, suivant les règles télégraphiques internationales, ses propres communications en les initiant avec trois ou quatre „entendu" et en se réglant, pour les transmissions successives et pour le collationnement, selon les règles qu'on vient de citer.

La transmission d'une dépêche étant achevée, ou après avoir épuisé la correspondance, les stations feraient suivre les signaux relatifs par les respectifs appels. Nous croyons que cette disposition serait la plus importante à l'état actuel de la radiotélégraphie, afin d'éviter dans la plupart de cas le dérangement des communications.

Dans les communications circulaires il serait nécessaire de fixer absolument l'ordre de transmission. — Mais avec des appareils des différentes portées il serait impossible d'établir cet ordre, surtout dans les stations commerciales exploitées par une personnel sujet à différentes organisations.

Entre les stations de notre marine de guerre et de celles de quelque pays, usant un seul système, les difficultés à cet égard ont été franchies aisément par une organisation unique et très disciplinée.

Dans les transmissions de longue durée et par les moyens actuels, on ne peut vérifier qu'à la fin si celui qui reçoit les a reçues; il serait peut-être opportun aussi pour ça d'adopter quelques signaux conventionels après un certain nombre de mots.

En cas de présence de parasites atmosphériques la réception pourrait être très dérangée. Il serait peut-être dans ce cas très utile que celui qui reçoit, l'accuse, dès qu'il le pourrait, à celui qui transmet, par un signal conventionel, après lequel les correspondants pourraient mettre en œuvre tous les moyens dont ils pourraient disposer pour réduire l'influence de l'électricité atmosphérique et pour améliorer par conséquent la réception. Naturellement une parfaite entente entre les opérateurs serait la condition indispensable.

Les observations faites dans les cas précedents ne considèrent pas celui de la superposition de deux ou plus transmissions faites avec le même ton, par des postes desquelles deux ou plus se trouveraient à une

distance plus grande que la portée des appareils. Dans ces cas nous pensons qu'il est possible de les résoudre avec des appareils de la même portée et une organisation rigoureuse, mais nous ne savons de quelle manière on pourrait les résoudre en différentes conditions.

Il y a un cas qui mérite toute notre attention, c'est celui des signaux d'urgence des navires en détresse.

Dans ce cas toutes les stations devraient être obligées de faire leur possible pour les recevoir; et je crois qu'il serait utile de s'accorder dans cette conférence sur la méthode à suivre. Pourtant nous proposons la norme suivante:

Un navire en détresse devrait envoyer à intervalles de quelques minutes le signal SSSDDD. Toutes les stations qui recevraient ce signal devraient suspendre leurs communications et passer tout de suite à la réception; au plus tôt elles se mettraient en communication avec le navire en commençant la transmission par le méme signal SSSDDD.

Nous ne croyons pas avoir examiné tous les inconvénients qui peuvent se présenter dans les communications radiotélégraphiques, d'autant plus que nous nous sommes limités à considérer les appareils dans les conditions actuelles. En ce moment le développement rapide de la radiotélégraphie, dont beaucoup de questions sont encore sans solution, tandis que d'autres forment l'objet de vives discussions on ne peut pas considérer les détails du fonctionnement des appareils et du service. Toutefois, après avoir cité les inconvénients, j'espère avoir montré la nécessité d'un unique système, d'une unique portée et d'une unique organisation bien disciplinée.

(Au sujet de ce mémoire M. Bonomo, au commencement de la cinquième séance, a fait la déclaration additionnelle suivante:

„Je crois devoir prévenir M. le Président et Messieurs les Délégués que la hâte avec laquelle j'ai dû consigner les feuilles de mon discours dans la dernière séance au bureau de la conférence et celle avec laquelle on les a imprimées, m'ont empêché de les revoir attentivement, et naturellement dans les épreuves il y a quelque diction et aussi des fautes qui peuvent donner lieu à des appréciations inexactes. Dans le but d'éviter tout malentendu à ce sujet, je crois devoir faire la déclaration suivante:

En faisant les susdites communications qui pourraient dans une seconde conférence fournir une partie de la matière pour formuler un règlement, dans le cas le plus favorable de l'adoption d'un seul système international, la délégation italienne a crû devoir montrer pratiquement le vif intérêt pour le but qui nous a réuni ici.

Les observations faites et les règles qu'on peut en dériver sont le fruit, comme je l'ai déjà dit, de l'expérience acquise dans notre service radiotélégraphique militaire; mais nous ne savons pas ce qui arriverait dans le cas des stations commerciales pour lesquelles nous n'avons aucune expérience.

Pour cette raison et pour l'autre des engagements que l'Italie a actuellement avec M. Marconi, en conformité des précédentes déclarations,

la délégation italienne ne pourrait aujourd'hui penser à la rédaction de quelles que soient les régles se référant aux communications radiotélégraphiques commerciales internationales pour lesquelles mon collègue, M. Solari, pourra exposer quelques idées. On croit pourtant devoir faire exception pour les règles qui pourraient regarder les navires en détresse.")

Cinquième séance.

12 août 1903.

La séance est ouverte à 10 h. 10 m. par M. le Président.

Sont présents tous les membres de la conférence qui assistaient à la première séance.

M. le Président propose que le procès-verbal de la quatrième séance soit approuvé sous réserve des corrections que les délégués intéressés voudraient signaler, le cas échéant, jusqu'à demain midi.

Il est entré dans la discussion de l'article III qui concerne le règlement auquel se rapporte le mémoire de M. Bonomo, délégué de l'Italie, annexé au procès-verbal de la dernière séance.

M. Bonomo fait la déclaration suivante: „Je crois devoir prévenir M. le Président et MM. les délégués que la hâte avec laquelle j'ai dû consigner les feuilles de mon discours de la dernière séance au bureau de la conférence et celle avec laquelle on les a imprimées, m'ont empêché de les revoir attentivement, et naturellement dans les épreuves il y a quelque diction et aussi des fautes pui peuvent donner lieu à des appréciations inexactes. Dans le but d'éviter tout malentendu à ce sujet, je crois devoir faire la déclaration suivante:

En faisant les susdites communications qui pourraient dans une seconde conférence fournir une partie de la matière pour formuler un règlement, dans le cas le plus favorable de l'adoption d'un seul système international, a délégation italienne a cru devoir montrer pratiquement le vif intérêt pour le but qui nous a réunis ici.

Les observations faites et les règles qu'on peut en déduire sont le fruit, comme je l'ai déjà dit, de l'expérience acquise dans notre service radiotélégraphique militaire; mais nous ne savons pas ce qui arriverait dans le cas de stations commerciales pour lesquelles nous n'avons aucune expérience.

Pour cette raison et pour l'autre des engagements que l'Italie a actuellement avec M. Marconi, en conformité des précédentes déclarations, la délégation italienne ne pourrait aujourd'hui penser à la rédaction de quelles que soient les règles se référant aux communications radiotélégraphiques commerciales internationales pour lesquelles mon collègue, M. Solari, pourra exposer quelques idées. On croit pourtant pouvoir faire exception pour les règles qui pourraient regarder les navires en détresse."

M. le Président propose de joindre cette déclaration au mémoire précité de M. Bonomo, qui se trouve annexé au procès-verbal de la dernière séance.

M. Schrader, délégué de l'Allemagne, discute le mémoire de M. Bonomo et la question du règlement en général dans les termes suivants:

L'honorable délégué de l'Italie, M. Bonomo, a bien voulu nous donner avant-hier ur grand nombre de points de vue généraux et de particularités pour un règlement exécutif qui doit compléter la convention de la télégraphie sans fil. Les observations de M. Bonomo sont sans doute d'une grande valeur parce qu'elles représentent le résultat précieux des riches expériences qu'on a fait dans la Marine Royale Italienne. Je suis donc sûr d'être votre interprète, Messieurs, en exprimant nos remerciements à M. Bonomo pour ses communications très intéressantes. Mais, à mon avis, un règlement de service international doit être basé sur les expériences de toutes les nations contractantes, et je crois donc qu'à la conférence prochaine les autres représentants seront à même de communiquer leurs expériences et que l'ensemble de toutes les expériences donnera une base pour l'élaboration d'un règlement. Dans ces circonstances je pense que la conférence présente ne désire pas entrer dans une délibération des détails que M. Bonomo a bien voulu nous donner. En conséquent je me borne à parler seulement de quelques observations importantes.

M. Bonomo a dit qu'à son avis dans l'état actuel de la science et de la technique il n'est possible de poser des règles pour organiser le service radiotélégraphique international que sous la condition qu'un seul système soit adopté. Pour ma part je prétends qu'au temps qu'il est il n'y a pas un système universel et quand on voudrait accepter un seul système aujourd'hui un autre système qui vaut mieux serait peut-être inventé demain. Il n'y a pas un système dont la supériorité absolue et définitive est reconnue généralement; la plupart des nations possèdent des systèmes qui fournissent des résultats satisfaisants; et les expériences faites en Allemagne ont mis hors de doute qu'une bonne communication est possible entre des stations munies de différents systèmes. Sur notre côte il y a un service pour la correspondance radiotélégraphique privée entre des stations de différents systèmes; on a échangé des télégrammes sur une distance de plus de 200 km. sans difficultés. M. Marconi a le mérite d'avoir prouvé par ses expériences qu'il est possible de franchir de grandes distances de 3,000 km. et au-delà, mais à mon avis, il ne s'agit pas, au temps qu'il est, si la télégraphie sans fil puisse remplacer les câbles sousmarins ou transatlantiques, tandis qu'il est de la plus grande importance d'employer la télégraphie sans fil comme moyen de communication où il n'y en a pas d'autres, c'est-á-dire entre les navires et les stations côtières sur des distances pas exagérées.

Il ne faut que la bonne volonté et le travail commun des nations pour arriver à une réglementation du service radiographique. Les exemples que M. Bonomo nous a donnés prouvent que la commission spéciale qu'une conférence ultérieure établira pour délibérer le règlement de service trouvera

beaucoup de travail, mais rien ne nous empêche d'espérer que cette commission puisse arriver à un résultat satisfaisant. Au temps qu'il est, il suffira d'établir quelques points de vue généraux pour l'émanation d'un règlement d'exécution; il faut en grandes traces indiquer les matériaux qu'il doit contenir, mais pas fixer les détails de ces matériaux. A notre avis le règlement doit contenir par exemple:

des règles pour le service technique proprement dit, c'est-à-dire l'instruction pour le personnel;

des dispositions pour éviter autant que possible les perturbations;

des dispositions pour l'application et la perception des taxes dont les bases sont fixées par la convention elle-même;

des dispositions pour la comptabilité, etc.

„Il sera donc la tâche d'une conférence ultérieure d'examiner les deux questions:

1° Quels articles du règlement du service de la télégraphie internationale ordinaire sont applicables à la télégraphie sans fil?

2° Quelles règles spéciales faut-il établir pour la télégraphie sans fil?

„Quant aux règles spéciales — tout en appréciant ce qu'a dit M. Bonomo — je crois qu'il faudra tenir compte qu'il s'agit d'un nouveau moyen de communication dont le développement pourrait être retardé par des règles d'un usage difficile. La bonne volonté de tous les entrepreneurs et des fonctionnaires sera sans doute plus utile que des dispositions trop minutieuses. Toutefois il y a quelques points de vue qui, à mon avis, exigent des dispositions précises. On a déjà mentionné dans une séance précédente qu'une confusion complète peut prendre place quand plusieurs navires se trouvant dans la sphère d'action de la même station côtière tâchent simultanément de se mettre en rapport avec cette station. Il va sans dire que des règles soigneusement établies sont nécessaires pour éviter ou limiter autant que possible les graves inconvénients en provenant et que chaque station de télégraphie sans fil doit être tenue à observer strictement les dispositions y relatives. Sans anticiper les travaux d'une conférence ultérieure en ce qui concerne la réglementation du service, je crois qu'un règlement international doit porter entre autre sur les deux points suivants d'une grande importance:

1° C'est toujours la station côtière qui prescrit l'ordre des transmissions quand plusieurs navires se trouvent dans le rayon d'action de cette station et exigent simultanément à correspondre avec elle.

2° La communication entre les stations côtières et les navires a la priorité sur la communication des navires entre eux, sauf les cas de détresse.

„Quant à la question subsidiaire — annexée à l'article III. — „faut-il créer des prérogatives en faveur des navires en détresse?“ je crois qu'en concordance avec la proposition de M. Bonomo il faut fixer un signal d'urgence pour les navires en détresse et que toutes les stations

qui se servent de ce signal devraient interrompre leurs transmissions et se mettre en rapport tout de suite avec le navire en détresse."

M. Gavey, délégué de la Grande-Bretagne, propose de biffer le mot „uniformes" dans l'article III.:

„Estimant que les propositions de cette conférence devraient être aussi générales que possible, la Grande-Bretagne croit qu'il serait avantageux d'éliminer au commencement de l'article III le mot ‚uniformes.' On lirait donc ‚Un règlement d'exécution fixera des règles pour, etc.'

La science de la radiotélégraphie a fait des progrès si remarquables depuis cinq ou six ans qu'on ne peut pas dire à présent que des règles uniformes s'appliqueraient dans deux ans à toutes les stations et à toutes les espèces d'installations au bout de deux ans à partir d'ici."

M. le Président, pour éviter des malentendus, fait ressortir que les explications de M. Schrader, n'ont pas pour but d'entrer dans des détails mais de constater seulement que l'Allemagne tient à fixer les dispositions de service par un règlement. „J'imagine que vous également partagez cette manière de voir. Pour donner à l'article III la plus large portée, je suis d'accord avec M. Gavey de supprimer l'expression ‚uniformes' de manière que la première phrase de l'article III obtient la teneur suivante:

‚Un règlement d'exécution fixera les règles pour le service des stations côtières avec les stations à bord des navires.'

Il reste encore de discuter la question des prérogatives en faveur des navires en détresse."

M. Bordelongue, délégué de la France, croit en effet indispensable de créer cette prérogative pour des raisons d'humanité. Les messages provenant des navires en détresse seraient annoncés par un signal d'urgence spécial et ils jouiraient de la priorité sur toutes les communications des stations qui reçoivent le dit signal.

M. le Président constate qu'il y a unanimité sous ce rapport, que les détails seraient à régler par une conférence ultérieure et il invite MM. les délégués à discuter la question du règlement.

M. Solari, délégué de l'Italie, fait la déclaration suivante:

„Je ne crois pas qu'il soit possible de rédiger à présent un règlement international pour les communications commerciales radiotélégraphiques entre des systèmes que nous ne connaissons qu'imparfaitement. Il faudrait, à mon avis, juger les systèmes avant de les régler; il faudrait connaître les différentes organisations respectives pour faire ce qu'on fait pour les chemins de fer. On parviendra à des concordats internationaux seulement après avoir comparé les différents règlements et après avoir considéré ces articles qui se sont montrés comme obstacles pour un bon service international. C'est pour ça que je propose que chaque nation présente le règlement qu'elle a en usage si elle en a; et si elle n'en a pas, qu'elle prenne les soins nécessaires pour le rédiger, l'expérimenter, et le rendre notoire afin de pouvoir le discuter dans une prochaine conférence. A ce sujet je puis informer que le règlement qui sera prochainement adopté

pour les stations commerciales italiennes est en maxima le règlement Marconi, lequel a été rédigé après une expérience de plusieurs années.

En appréciant le but de cette conférence, nous pourrons donc faire notoires le nombre, la position des stations côtières italiennes et les normes générales pour entrer en communication avec elles selon le règlement adopté.

Dans la prochaine année l'Italie mettra à la disposition du public douze stations maritimes du système Marconi, qui pourront communiquer avec tous les navires nationaux et étrangers, pourvu qu'on accepte les amendements proposés par la délégation italienne pendant la discussion.

De cette manière l'Italie désire contribuer aux bonnes communications de tous les pays qui apportent, à travers la mer, le plus grand advantage au bien-être et à la fraternité des peuples."

M. le Président résume la situation en constatant que les délégués sont d'accord au point de vue de la nécessité d'un règlement, mais qu'il incomberait à une prochaine conférence de fixer les détails et de créer des prérogatives pour les messages des navires en détresse.

M. Bordelongue déclare que la délégation française a élaboré l'article suivant à insérer après l'article III:

„Les stations côtières de télégraphie sans fil qui ne seraient pas ouvertes au service télégraphique privé avec les navires en mer devront, à moins d'impossibilités matérielles, recevoir les demandes de secours qui leur parviendraient de ces navires."

M. le Président constate qu'il n'y a pas d'objection contre cet amendement et il passe à la discussion de l'article IV amendé par l'Allemagne.

M. Heath, délégué de la Grande-Bretagne, propose ce qui suit:

„The recommendations of the present conference should not apply to naval and military wireless telegraphy stations, nor to naval or military communications."

(Les dispositions de la présente conférence ne seront pas applicables aux stations radiotélégraphiques navales ou militaires ni à des communications navales ou militaires.)

Après un échange de vues sur la portée de cet amendement M. Osadschy, délégué de la Russie, fait remarquer qu'il juge nécessaire d'ajouter à la fin de l'article IV les mots: „et aussi à toutes les autres stations d'État à destination spéciale qui ne sont pas ouvertes au service public."

M. Sellner, délégué de la marine austro-hongroise, fait la proposition suivante:

„Les stations radiotélégraphiques établies par les autorités militaires pour le besoin de leur service ne sont pas obligées d'accepter les correspondances privées et celles venant des bateaux de guerre étrangers, à moins d'ententes spéciales établies à ce sujet.

Ces stations sont, en général, exceptées des dispositions de cet arrangement et auront elles-mêmes soin de prêter, autant que possible, assistance aux navires en détresse."

M. Grillo, délégué de l'Italie, est d'avis que pour laisser la plus grande liberté à chaque Gouvernement, on pourrait accepter la rédaction allemande qui est assez concise. Mais si l'on veut aller encore plus loin, il conviendrait peut-être de choisir la teneur proposée par M. Bonomo dans son mémoire (du procès-verbal de la séance précédente), conçue ainsi:

„Chaque nation peut établir pour ses stations côtières militaires et pour les navires de guerre les dispositions qu'elle croit utiles, pourvu qu'elles ne soient pas de nature à déranger les communications internationales."

M. Bordelongue trouve que la discussion s'écarte un peu de son but principal. La question soumise à la conférence ne peut être et n'est pas de limiter le droit des États en ce qui concerne leurs intérêts militaires ou maritimes, La mission de la conférence est de régler l'échange de la correspondance publique entre les stations ouvertes aux service général et les navires en mer.

Une station militaire qui ne remplit pas cette condition n'a aucune obligation à l'égard de la correspondance internationale. Il n'y a donc à prévoir pour ces stations aucune obligation ni restriction d'exploitation.

M. Greely, délégué des États-Unis, s'associe aux idées tendant à donner une situation exceptionnelle à toutes les stations d'Etat.

M. le Président propose d'exlure complètement les cas de guerre, pour lesquels chaque Etat se réserverait naturellement toute la liberté d'action.

La Russie a proposé la rédaction la plus large en vue d'exclure d'une réglementation internationale toutes les stations d'Etat non ouvertes au service public. En fond, c'est aussi l'avant-projet allemand.

La délégation britannique est d'avis qu'il conviendrait d'exclure aussi les communications navales et militaires ainsi que les échanges entre les navires militaires et les stations côtières ouvertes au public.

Après quelques remarques de M. v. Stibral, délégué de l'Autriche, M. Bordelongue déclare que le fait que les correspondances originaires ou à destination des navires de guerre sont considérées comme télégrammes d'Etat et ont la priorité sur les autres messages doit faire disparaître les craintes ou les divergences d'opinion que l'on vient d'exprimer. Il demande, dans tous les cas, que cette priorité soit reconnue.

M. le Président fait remarquer que les perturbations réciproques et les cas de détresse seront discutés plus tard. Il invite MM. les délégués à se prononcer sur les questions suivantes:

1° S'il y a moyen de faire une exception pour les correspondances entre les vaisseaux militaires et les stations côtières ouvertes au public;

2° S'il conviendrait d'accorder aux communications provenant et à destination des navires de guerre la priorité sur les autres radiotélégrammes.

M. von Stibral, délégué de l'Autriche, recommande de laisser à une prochaine conférence d'étudier la question et de fixer les points du règlement international qu'il conviendrait d'appliquer aux stations d'Etat, y inclus celles de la marine et de l'armée, et comment il y aurait lieu de traiter les communications navales et militaires.

M. Calvo y Juana, délégué de l'Espagne, est d'avis qu'aux navires de guerre ne seront pas appliquées les mêmes dispositions qu'aux navires de commerce. En outre il adhère à la proposition d'accorder aux navires de guerre les priorités pour les correspondances.

M. Bordelongue fait ressortir que la télégraphie sans fil n'est pas, à proprement parler, un organisme nouveau d'échange de la correspondance, mais simplement une extension des moyens actuels de transmission. On doit le réglementer en s'inspirant des dispositions actuelles du service télégraphique et ne pas limiter les avantages dont bénéficie la correspondance d'Etat.

M. Greely est d'avis que la proposition de la délégation russe, étant la plus large, donnerait la satisfaction la plus complète.

M. Heath est d'accord avec M. Greely.

M. Hollós, délégué de la Hongrie, veut soumettre les échanges entre les navires de guerre et les stations côtières publiques au règlement international et accorderait la priorité aux télégrammes de ces navires.

M. Grillo accepte entièrement la rédaction allemande. Les navires de guerre doivent être obligés de se soumettre au règlement international pour ce qui concerne leurs correspondances avec les stations publiques et avec d'autres vaisseaux. En outre il est d'accord avec la France quant à la priorité des télégrammes des navires de guerre.

M. Salewsky, délégué de la Russie, émet les mêmes opinions.

M. le Président résume comme résultat de la discussion que MM. les délégués sont d'avis:

1° d'exclure totalement les questions de cas de guerre;

2° de réglementer seulement le service entre les stations côtières ouvertes aux service public et les navires. Il s'ensuit que toutes les stations destinées seulement aux services naval et militaire ne seront pas soumises aux dispositions générales du règlement.

Le Président fait ressortir en outre que la plupart des délégués désirent soumettre au règlement aussi les corresspondances des navires de guerre avec les stations côtières publiques et accorder à ces messages la priorité dont jouissent les télégrammes d'Etat. Cependant, les États-Unis et la Grande-Bretagne préféreraient renvoyer cette question de détails à une conférence ultérieure.

On passe à la discussion de l'intercalation proposée par l'Allemagne pour l'article IV, savoir des mots „sauf la disposition de l'article Ier § 4."

La tendance de cette proposition est de soumettre dans les temps de paix, à l'article Ier § 4 aussi les stations à destination spéciale et les échanges avec ces stations, en vue d'écarter autant que possible les perturbations qui pourraient provenir de telles stations.

M. Heath fait remarquer qu'il ne peut pas adhérer à l'amendement allemand, mais il serait mieux de régler cette question par un arrangement spécial entre les Gouvernements intéressés.

M. Bordelongue se rallie d'une manière complète à la proposition de l'Allemagne. C'est l'intérêt général d'éviter des perturbations volontaires ou non, qui peuvent gêner l'exécution régulière du service international.

M. le Président invite MM. les délégués à émettre leurs opinions sur l'amendement allemand.

M. Sellner est d'avis, que les navires de guerre ne doivent pas déranger les stations côtières, mais il ne serait pas nécessaire d'insérer une obligation dans l'article IV.

M. Calvo y Juana adhère à la proposition allemande.

M. Lamb, délégué de la Grande-Bretagne, ne voit aucune nécessité de soumettre les États à pareilles obligations, vu que l'on ne saurait douter de leur bonne volonté d'avoir tous les égards nécessaires au service international. Il ne répondrait point aux intérêts des États mêmes de déranger le service radiographique du public.

Les délégations italienne, hongroise et russe sont d'accord avec la proposition allemande.

M. le Président constate qu'en général la conférence juge utile d'exprimer dans l'arrangement international la bonne volonté des États contractants de ne pas laisser déranger les stations publiques par les stations à destination spéciale.

Il ouvre ensuite la discussion sur la suggestion d'accorder des prérogatives aux navires en détresse. D'après l'amendement de la France il serait désirable que les stations non soumises au règlement international répondent aussi aux appels des navires en détresse. M. Sellner a fait une proposition tendant au même but. M. le Président constate que tous les délégués sont d'accord avec cette mesure d'humanité.

Il passe ensuite à l'article V, pour lequel M. Bonomo a donné une autre rédaction dans son mémoire (procès-verbal de la séance précédente), savoir:

„Les pays qui n'ont point adhéré à la présente convention et qui entendent se servir de la télégraphie sans fil doivent accepter intégralement les règles internationales adoptées.“

M. Grillo explique les motifs qui ont guidé la délégation italienne dans cette proposition.

M. le Président est d'avis qu'au fond il n'y a pas de différence entre les deux rédactions. Il propose à l'égard du traitement ultérieur de la matière, que des délégués de chaque pays se réunissent pour essayer de trouver

une rédaction précise de quelques thèses générales qui pourraient former le contenu d'un protocole final. Celui-ci serait à signer par ceux des délégués qui sont d'accord avec ces thèses, sous réserve que le procès-verbal doit reproduire seulement les opinions des signataires, sans préjudice à la décision définitive de leurs Gouvernements. Les autres délégués auront la faculté de faire valoir leurs opinions divergentes.

En cas de consentement M. le Président propose de se réunir dans son bureau à trois heures de l'après-midi.

M. Lamb est d'accord, sauf la question de signature. Il préférerait résumer les résultats de la conférence dans un memorandum à communiquer par les soins du Gouvernement allemand aux autres Gouvernements intéressés.

M. le Président est d'avis que le protocole devrait être signé par les délégués qui le jugent utile et qu'il devrait rester ouvert à ceux qui le désirent. Ces derniers pourraient adhérer plus tard.

M. Bordelongue appuie sur le caractére préliminaire de cette conférence qui a pour unique mission d'échanger des vues et de fixer, s'il est possible, des bases générales dont le texte sera soumis par les diverses délégations à leurs Gouvernements respectifs en vue d'une convention internationale.

La délégation française reconnaît qu'une réglementation est, dès à présent, nécessaire. Elle est disposée à arrêter un texte et à le signer pour constater l'accord établi entre les délégués. Mais elle désire qu'il soit indiqué que c'est un document qui sera soumis par eux à l'examen de leurs Gouvernements en réservant complètement leurs décisions.

M. le Président dit que le protocole serait à soumettre par les délégués à l'approbation de leurs Gouvernements, mais qu'il serait nécessaire de préciser autant que possible l'état actuel des opinions différentes. Après avoir répété son invitation pour 3 heures, il clôt la séance à midi.

Séance prochaine jeudi 13 août à midi.

Le Président:
Sydow.

Les Secrétaires:
Fuhrken. Lindow. Pfitzner. Oberlaender.

Sixième et dernière séance.

13 août 1903.

La séance est ouverte à midi 10 m. par M. le Président.

Sont présents tous les membres de la conférence qui assistaient à la première séance, à l'exception de M. Solari, délégué de l'Italie, s'excusant par une lettre d'avoir été obligé de partir avant la clôture.

Sur la demande de M. le Président le procès-verbal de la cinquième séance est approuvé par l'assemblée sauf les corrections à signaler, le cas échéant, par les délégués intéressés, jusqu'à demain, midi.

M. le Président: „Aux termes de la résolution, consignée au procès-verbal de la dernière séance, une commission spéciale s'est réunie hier dans l'après-midi sous ma présidence. Cette commission a procédé à l'élaboration d'une déclaration collective dont une épreuve se trouve entre vos mains. J'invite M. Bordelongue, délégué de la France, à se charger de la fonction de rapporteur et à donner lecture de ladite déclaration."

M. Bordelongue, délégué de la France, déclare que la commission de rédaction, qui s'est réunie sous la présidence de M. Sydow, a cru devoir fixer, par un texte, les résolutions arrêtées par les conférents. Ces résolutions ne peuvent avoir toutefois que le caractère d'indications et d'avis, la conférence étant simplement une commission d'études dont les opinions ne sauraient engager les Gouvernements représentés.

C'est dans cet esprit que le texte dont il va être donné lecture a été arrêté; c'est dans ce même esprit que les délégations représentées ont été d'accord pour le signer en le faisant suivre d'un préambule qui réserve explicitement l'examen des Gouvernements.

L'orateur procède à la lecture du texte proposé.

Les délibérations suivent la lecture de chaque article et paragraphe, lecture qui est précédée, le cas échéant, par les observations de M. le Rapporteur.

„Les Délégations à la Conférence préliminaire concernant la télégraphie sans fil, désignées ci-après:

Allemagne, Autriche, Espagne, États-Unis d'Amérique, France, Grande-Bretagne, Hongrie, Italie, Russie,

sont d'accord pour proposer à l'examen de leurs Gouvernement les bases générales de réglementation suivantes comme pouvant faire l'objet d'une Convention internationale."

Sur la proposition de M. le Président, la question si les États qui ont à faire des réserves doivent être énumérés dans le préambule est ajournée jusqu'à la fin de la délibération. Pour le reste la teneur du préambule est acceptée.

„Article Ier.

L'échange de la correspondance entre les navires en mer et les stations côtières de télégraphie sans fil, ouvertes au service télégraphique général, est soumis aux dispositions suivantes.

§ 1er. Est appelée station côtière toute station fixe dont le champ d'action s'étend sur la mer."

M. Grillo, délégué de l'Italie, émet le désir qu'il soit ajouté à la fin de l'article Ier § 1er les mots: „moins que 500 kilomètres." Toutefois après un échange de vues l'orateur n'insiste plus sur sa demande.

„§ 2. Les stations côtières sont tenues de recevoir et de transmettre les télégrammes originaires ou à destination des navires en mer sans distinction des systèmes de télégraphie sans fil employés par ces derniers."

Pas d'observation.

„§ 3. Les États contractants rendent publics tous les renseignements techniques de nature à faciliter et à accélérer les communications entre les stations côtières et les navires en mer.

Toutefois, chacun des Gouvernements contractants peut autoriser les stations situées sur son territoire, et cela dans les conditions qu'il jugera convenables, à utiliser plusieurs installations ou dispositifs différents."

M. le Rapporteur propose de remplacer les mots „dispositifs différents" à la fin du § 3 du même article par les mots plus précis „dispositifs spéciaux." Cette proposition est agréée.

„§ 4. Les États contractants déclarent adopter, pour la fixation des tarifs applicables au trafic télégraphique, échangé entre les navires en mer et le réseau télégraphique international, les bases ci-après:

La taxe totale à percevoir pour ce trafic est établie par mot; elle comprend:

a) la taxe relative au parcours terrestre dont le montant est celui fixé par le règlement télégraphique international en vigueur, annexé à la Convention de St.-Pétersbourg;

b) la taxe afférente au parcours maritime.

Cette dernière est, comme la précédente, fixée d'après le nombre de mots, ce nombre de mots étant compté conformément au règlement télégraphique international visé au paragraphe a) ci-dessus; elle comprend:

1° une taxe appelée „taxe de la station côtière" qui revient à la dite station;

2° une taxe appelée „taxe du bord" qui revient à la station installée sur le navire.

La taxe de la station côtière est subordonnée à l'approbation de l'État sur le territoire duquel cette station est établie, et celle du bord à l'approbation de l'État dont le navire porte le pavillon.

Chacune de ces deux taxes doit être fixée sur la base de la rémunération équitable du travail télégraphique."

Sur la demande de M. von Stibral, délégué de l'Autriche, on remplace au § 4 (sous a) le mot „terrestre" par les mots „sur les

lignes du réseau télégraphique," international," attendu qu'il ne s'agit pas seulement d'un parcours terrestre mais aussi d'un parcours sous-marin.

La rédaction sous § 4b, 2° est sur la proposition de M. le Rapporteur modifiée de la manière suivante: „2° une taxe appelée 'taxe du bord' qui revient au poste installé sur le navire."

M. Greely, délégué des Etats-Unis, fait observer que d'après la législation de son pays les taxes télégraphiques ne sont pas soumises du tout à l'approbation préalable du Gouvernement et que, par conséquent, celui-ci ne serait pas à même d'approuver en détail les taxes des stations côtières.

M. le Président est de l'avis qu'il ne serait pas nécessaire de modifier la teneur en question mais qu'il suffirait de faire mention de l'observation de M. Greely au procès-verbal.

Par rapport au § 4, dernier alinéa, M. le Président fait observer que la question d'un maximum de taxe qui a été largement discutée dans des délibérations antérieures n'est pas réglée, vu la grande divergence des opinions émises et vu que les États qui jugent nécessaire d'introduire un maximum par un règlement international ont déjà fixé leur avis dans les procès-verbaux des séances antérieures.

„Article II.

Un règlement qui sera annexé à la convention à intervenir établira les règles applicables à l'échange des communications entre les stations côtières et les postes placés sur les navires.

Les prescriptions de ce règlement pourront être à toute époque modifiées d'un commun accord par les administrations des Etats contractants."

„Article III.

Les dispositions de la convention télégraphique de St. Pétersbourg sont applicables aux transmissions par la télégraphie sans fil en tant qu'elles ne sont pas contraires à celles de la convention à intervenir."

„Article IV.

Les stations de télégraphie sans fil doivent, à moins d'impossibilité matérielle, accepter par priorité les demandes de secours qui leur parviendraient des navires."

„Article V.

Le service d'exploitation des stations de télégraphie sans fil doit être organisé, autant que possible, de manière à ne pas troubler le service d'autres stations."

Pas d'observations par rapport aux articles II jusqu'à V.

„Article VI.

Les Gouvernements contractants se réservent respectivement le droit de prendre entre eux des arrangements particuliers ayant pour but d'obliger les entrepreneurs exploitant sur leur territoire à observer, dans toutes leurs autres stations, les prescriptions de la convention à intervenir."

Sur la demande de M. von Stibral, on remplace, à l'article VI les mots „exploitant sur leur territoire" par les mots „exploitant sur leur territoire des stations de télégraphie sans fil."

M. le Rapporteur fait la remarque suivante: „Les délégués des États-Unis ont déclaré que la législation de leur pays permet en effet d'admettre des stations radiographiques dans les États-Unis sous condition de leur soumission, sur ce territoire, aux principes de la convention à intervenir, mais non pas sous la condition qu'elles se soumettent à ces principes également dans d'autres pays. Vu que l'obligation concernant les stations dans le propre pays ressort déjà de la teneur de l'article Ier § 2, on a borné l'article VI à la question de l'obligation dans les pays étrangers et réservé cette matière à un arrangement ultérieur. Les délégués des États représentés, à l'exception des États-Unis, de la Grande-Bretagne et de l'Italie, ont émis l'opinion que leurs Gouvernements donneraient leur adhésion à un tel arrangement.

„Article VII.

Les prescriptions de la convention à intervenir ne sont pas applicables aux stations d'Etat de télégraphie sans fil non ouvertes à la correspondance télégraphique privée, sauf en ce qui concerne les clauses qui font l'objet des articles IV et V."

M. García de los Reyes, délégué de l'Espagne, propose de biffer dans l'article VII les mots „non ouvertes à la correspondance télégraphique privée" et d'ajouter à la fin la phrase: „Il sera de même pour les télégrammes échangés entre lesdites stations d'Etat et les stations ordinaires et, en tous ces cas, pour les télégrammes d'Etat."

Après un échange de vues auquel prennent part M. le Président et M. le Raporteur, le représentant espagnol n'insiste plus sur son amendement. Néanmoins et pour donner satisfaction aux objections de M. Garcia, le texte de l'article VII obtient le changement suivant: Remplacer les mots „à la correspondance télégraphique privée" par les mots „au service télégraphique général."

„Article VIII.

Les pays qui n'ont point adhéré à la convention à intervenir y seront admis sur leur demande."

Pas d'objections.

La discussion du projet de la commission terminée, on est d'accord, sur la proposition de M. le Président, de donner à ce document la dénomination „Protocole Final."

M. le Président invite à présent ceux entre les délégués qui ont à faire des réserves à les formuler.

M. Lamb, délégué de la Grande-Bretagne, fait au sujet de ses réserves la déclaration suivante:

„Tout en s'engageant à soumettre les bases ci-dessus à l'examen de son Gouvernement, la délégation britannique déclare qu'en vue de la situation dans laquelle se trouve la télégraphie sans fil dans le Royaume-Uni cette délégation doit maintenir une réserve générale. Cette réserve se rapporte spécialement à l'article Ier § 2 et à l'application de dispositions de l'article V aux stations visées par l'article VII.

M. Grillo, délégué de l'Italie, déclare à son tour:

„La délégation de l'Italie, tout en acceptant de soumettre à l'examen de son Gouvernement les propositions contenues dans le protocole final de la conférence, doit, selon les déclarations faites par ses membres dans les diverses séances, faire pour le compte de son Gouvernement les réserves suivantes:

(Article Ier, § 2.)

„Elle accepterait le texte proposé seulement à condition d'y faire l'adjonction suivante:

„Pourvu que tous ces systèmes donnent une garantie reconnue d'un bon fonctionnement dans la correspondance réciproque quant à la portée, à la perfection de l'organisation et à la sûreté des communications."

(Article Ier, § 3.)

„Elle ne peut accepter le premier alinéa de ce paragraphe parce que dans les conventions conclues avec M. Marconi le Gouvernement s'est engagé à tenir secrets les détails des installations.

(Article VI.)

„Elle ne peut accepter le texte de cet article et doit se borner à déclarer que de la part de son Gouvernement on fera le possible pour introduire dans les conventions stipulées avec Marconi des modifications dans le sens désiré."

M. Grillo termine sa déclaration en disant que sauf ces réserves il serait bien heureux d'adhérer à la convention à intervenir.

M. le Président fait ressortir que les réserves formulées par les délégations de la Grande-Bretagne et de l'Italie ont une importance telle, surtout en ce qui concerne l'article Ier § 2, qu'elles modifient

la portée du protocole final d'une manière très essentielle. Il ne conviendrait donc pas, à son avis personnel, de laisser les noms „Grande-Bretagne“ et „Italie“ dans le préambule et il vaudrait mieux consigner dans le protocole, à la suite des signatures de la majorité, les réserves formulées par les délégations de ces deux pays. Cette proposition obtient l'assentiment des délégués de la Grande-Bretagne et de l'Italie ainsi que des autres délégués. Une expédition du protocole ainsi conçu serait préparée jusqu'à 3 h. pour être signée par MM. les délégués.

Quant au procès-verbal de la présente séance, qui ne tardera pas à parvenir entre les mains de MM. les délégués, il importerait d'en faire connaître les corrections, s'il y a lieu, jusqu'à la fin de la semaine prochaine.

Ces propositions sont agréées.

Ensuite M. le Président annonce que des copies légalisées du protocole final ainsi que les procès-verbaux des séances parviendront aux Gouvernements intéressés par la voie diplomatique.

Il continue en ces termes:

„Messieurs, j'aime à espérer que vous soyez d'accord que l'Allemagne, par la même voie, invite tous les États maritimes de l'Europe et les États-Unis d'Amérique à se réunir l'année prochaine à Berlin dans une conférence d'un caractère plus général.“

Sur la suggestion de M. Lamb, d'inviter aussi le Japon, M. le Président émet l'avis qu'il serait préférable de laisser la solution de cette question à la diplomatie, vu que cette conférence n'est pas compétente sous ce rapport. En ce qui concerne les communications pour la presse, il propose de ne lui donner provisoirement qu'une note que les délégués de la plupart des États représentés dans la conférence se sont mis d'accord sur les principes les plus importants pour une règlementation de la télégraphie sans fil et que, sur la base de cet accord, l'Allemagne irait probablement sous peu adresser aux États maritimes l'invitation pour une conférence d'une portée plus générale, tendant à la stipulation d'un arrangement international, concernant l'organisation de la radiotélégraphie et du règlement d'exécution y relatif. Pour le reste le contenu des procès-verbaux, selon l'avis de M. le Président, continuera à être traité confidentiel jusqu'à ce que MM. les délégués aient été à même de faire leurs rapports aux Gouvernements respectifs. Vu le long trajet de la délégation des États-Unis il conviendrait de n'admettre aucune divulgation avant le 1er septembre prochain.

Ces propositions sont acceptées.

Vers la fin de la séance M. Kraetke, Secrétaire d'Etat du Département des Postes, entre dans la salle et prononce le discours suivant:

„Messieurs, — Je n'ai pas manqué de soumettre à Sa Majesté l'Empereur les hommages respectueux que Messieurs les délégués ont bien voulu présenter à Sa Majesté par l'intermédiaire de l'honorable délégué de la Grande-Bretagne, M. Lamb, au cours de la première séance. Je suis heureux que le chef du Cabinet impérial vient de me transmettre une communication, dont la traduction suit:

„‚Sa Majesté l'Empereur et Roi a daigné prendre connaissance des hommages que les délégués étrangers de la conférence préliminaire concernant la télégraphie sans fil lui ont présentés. Sa Majesté suit les travaux de la conférence avec le plus vif intérêt et vous prie d'exprimer à l'occasion de la clôture de la conférence ses remerciements sincères à MM. les délégués des Gouvernements étrangers.

Messieurs, vous avez fini vos travaux. Ils ont abouti à des résultats qui laissent espérer un succès réel à l'avenir. La plupart des Etats représentés ici sont d'accord sur tous les points principaux et partout la bonne volonté s'est manifestée d'utiliser cet accord pour arriver à un nouveau progrès dans les communications internationales. S'il reste encore de surmonter certains obstacles, ceux-ci résident moins dans l'aversion pour une réglementation internationale de ce service que dans le désir de prendre égard aux compagnies qui sont déjà en possession d'un nombre d'installations et à l'état actuel de la législation intérieure des pays.

Messieurs, il s'est toujours démontré qu'un esprit de conciliation réunit les grands États de l'Europe et les États-Unis d'Amérique lorsqu'il s'agit de nouveaux progrès culturels, et j'aime à croire que ce même esprit qui s'est révélé aussi pendant vos délibérations sera assez fort pour vaincre les difficultés qui pourraient s'opposer encore à une réglementation internationale de la télégraphie sans fil.

Messieurs, je prononce l'espérance de pouvoir vous saluer de nouveau ici l'année prochaine dans une conférence plus grande. Et en vous remerciant de vos travaux assidus, témoignages de votre haute intelligence, je clos la conférence; cependant je ne vous dis pas ‚Adieu!‘ mais bien ‚Au revoir!‘“ (Vifs applaudissements.)

L'original de la lettre du Cabinet de Sa Majesté est conçu en ces termes:

Potsdam, den 12. August 1903.

Euerer Exzellenz beehre ich mich in Erwiderung des gefälligen Schreibens vom 11. d. M. ganz ergebenst mitzuteilen, dass Seine Majestät der Kaiser und König von der Huldigung der ausländischen Vertreter der internationalen Vorkonferenz für drahtlose Telegraphie mit Befriedigung Kenntnis zu nehmen geruht haben. Seine Majestät begleiten die Arbeiten der Konferenz mit besonderem Interesse und lassen Euere Exzellenz ersuchen, beim Schluss derselben den Vertretern der auswärtigen Staaten Allerhöchst ihren herzlichen Dank zum Ausdruck zu bringen.

(gez.) *v. Lucanus.*

En réponse au discours du Secrétaire d'État, M. Greely, délégué des États-Unis, au nom de toutes les délégations étrangères, exprime les remerciements les plus chaleureux au Département des Postes allemandes pour l'obligeant accueil qu'on a fait aux délégués. Ensuite, il remercie M. le Président de la direction habile et impartiale des délibérations et le Bureau de son concours dans l'expédition des affaires.

La signature du protocole final, annexé dans la teneur définitive au présent procès-verbal, a eu lieu à 3 heures.

Le Président:

Sydow.

Les Secrétaires:

Fuhrken. Lindow. Pfitzner. Oberlaender.

Annexe au procès-verbal de la 6me séance.

Protocole Final.

Les délégations à la Conférence préliminaire concernant la télégraphie sans fil, désignées ci-après:

Allemagne, Autriche, Espagne, Etats-Unis d'Amérique, France, Hongrie, Russie,

sont d'accord pour proposer à l'examen de leurs Gouvernements les bases générales de réglementation suivantes comme pouvant faire l'objet d'une Convention internationale.

Article Ier.

L'échange de la correspondance entre les navires en mer et les stations côtières de télégraphie sans fil, ouvertes au service télégraphique général, est soumis aux dispositions suivantes.

§ 1er. Est appelée station côtière toute station fixe dont le champ d'action s'étend sur la mer.

§ 2. Les stations côtières sont tenues de recevoir et de transmettre les télégrammes originaires ou à destination des navires en mer sans distinction des systèmes de télégraphie sans fil émployés par ces derniers.

§ 3. Les Etats contractants rendent publics tous les renseignements techniques de nature à faciliter et à accélérer les communications entre les stations côtières et les navires en mer.

Toutefois, chacun des Gouvernements contractants peut autoriser les stations situées sur son territoire, et cela dans les conditions qu'il jugera convenables, à utiliser plusieurs installations ou dispositifs spéciaux.

§ 4. Les Etats contractants déclarent adopter, pour la fixation des tarifs applicables au trafic télégraphique, échangé entre les navires en mer et le réseau télégraphique international, les bases ci-après:

La taxe totale à percevoir pour ce trafic est établie par mot; elle comprend:

a) la taxe relative au parcours sur les lignes du réseau télégraphique dont le montant est celui fixé par le règlement télégraphique international en vigueur, annexé à la convention de St. Pétersbourg:

b) la taxe afférente au parcours maritime.

Cette dernière est, comme la précédente, fixée d'après le nombre de mots, ce nombre de mots étant compté conformément au règlement télégraphique international visé au paragraphe (a) ci-dessus.

Elle comprend:

1° une taxe appelée „taxe de la station côtière" qui revient à la dite station;

2° une taxe appelée „taxe du bord" qui revient au poste installé sur le navire.

La taxe de la station côtière est subordonnée à l'approbation de l'Etat sur le territoire duquel cette station est établie, et celle du bord à l'approbation de l'Etat dont le navire porte le pavillon.

Chacune de ces deux taxes doit être fixée sur la base de la rémunération équitable du travail télégraphique.

Article II.

Un règlement qui sera annexé à la convention à intervenir établira les règles applicables à l'échange des communications entre les stations côtières et les postes placés sur les navires.

Les prescriptions de ce règlement pourront être à toute époque modifiées d'un commun accord par les Administrations des Etats contractants.

Article III.

Les dispositions de la convention télégraphique de St. Pétersbourg sont applicables aux transmissions par la télégraphie sans fil en tant qu'elles ne sont pas contraires à celles de la convention à intervenir.

Article IV.

Les stations de télégraphie sans fil doivent, à moins d'impossibilité matérielle, accepter par priorité les demandes de secours qui leur parviendraient des navires.

Article V.

Le service d'exploitation des stations de télégraphie sans fil doit être organisé, autant que possible, de manière à ne pas troubler le service d'autres stations.

Article VI.

Les Gouvernements contractants se réservent respectivement le droit de prendre entre eux des arrangements particuliers ayant pour but d'obliger

les entrepreneurs exploitant sur leur territoire des stations de télégraphie sans fil à observer, dans toutes leurs autres stations, les prescriptions de la convention à intervenir.

Article VII.

Les prescriptions de la convention à intervenir ne sont pas applicables aux stations d'Etat de télégraphie sans fil non ouvertes au service télégraphique général sauf en ce qui concerne les clauses qui font l'objet des articles IV et V.

Article VIII.

Les Pays qui n'ont point adhéré à la convention à intervenir, y seront admis sur leur demande.

Fait à Berlin le 13 août 1903.

Pour l'Allemagne:

Sydow.
Strecker.
Wachenfeld.
Schrader.
Flügel.
Rieve.
Most.
Dr. Felisch.
Dr. Beggerow.
Oschmann.
Klussmann.

Pour l'Autriche:

Stibral.
Arthur Linninger.
Sellner.

Pour l'Espagne:

Calvo.
Pelaez Campomanes.
Mateo García.

Pour les États-Unis d'Amérique:

Greely.
Barber.
J. I. Waterbury.

Pour la France:

Bordelongue.
Sins.
Magne.
Boulanger.
Houdaille.
F. Arago.

Pour la Hongrie:

Charles Follért.
André Kolossvary.
Józef Hollós.
Sellner.

Pour la Russie:

Bilibine.
P. Ossadtchy.
Popoff.
Zalewski.

Déclaration de la délégation de la Grande-Bretagne.

Tout en s'engageant à soumettre les bases ci-dessus à l'examen de son Gouvernement la délégation britannique déclare qu'en vue de la situation dans laquelle se trouve la télégraphie sans fil dans le Royaume-Uni cette délégation doit maintenir une réserve générale. Cette réserve se rapporte spécialement à l'article Ier paragraphe 2 et à l'application des dispositions de l'article V aux stations visées par l'article VII.

Fait à Berlin le 13 Août 1903.

J. C. Lamb.
J. Gavey.
R. J. Mackay.
R. L. Hippisley, Col.
H. L. Heath Captain, R.N.
R. Payne, Lieut., R.N.

Déclaration de la délégation de l'Italie.

La délégation de l'Italie tout en acceptant de soumettre à l'examen de son Gouvernement les propositions contenues dans le protocole final de la conférence doit, selon les déclarations faites par ses membres dans les diverses séances, faire pour le compte de son Gouvernement les réserves suivantes:

Article Ier. § 2.

Elle accepterait le texte proposé seulement à condition d'y faire l'adjonction suivante:

„Pourvu que tous ces systèmes donnent une garantie reconnue d'un bon fonctionnement dans la correspondance réciproque quant à la portée, à la perfection de l'organisation et à la sûreté des communications."

Article Ier. § 3.

Elle ne peut accepter le premier alinéa de ce paragraphe parce que dans les conventions conclues avec M. Marconi le Gouvernement s'est engagé à tenir secrets les détails des installations.

Article VI.

Elle ne peut accepter le texte de cet article et doit se borner à déclarer que de la part de son Gouvernement on fera le possible pour introduire dans les conventions stipulées avec M. Marconi des modifications dans le sens désiré.

Fait à Berlin le 13 août 1903.

C. Grillo.
Bonomo.
Cardarelli.

78.

BELGIQUE.

Loi sur les lettres de mer du 19 septembre 1903.

Moniteur Belge du 21 décembre 1903.

Léopold II, Roi des Belges,
A tous présents et à venir, Salut.

Les Chambres ont adopté et Nous sanctionnons ce qui suit:

Art. 1er. Les navires de mer doivent être munis, pour naviguer sous pavillon belge, d'une lettre de mer délivrée conformément aux dispositions de la présente loi.

Art. 2. § 1er. Les lettres de mer mentionnent le nom du bâtiment, sa capacité, ses signes particuliers, le nom du capitaine et celui du propriétaire.

§ 2. Elles sont délivrées, au nom du Roi, par le Ministre des Affaires étrangères ou le fonctionnaire délégué par lui.

Art. 3. Il ne sera délivré de lettre de mer qu'à des navires appartenant pour plus de moitié;

A. A des Belges;

B. A des sociétés commerciales auxquelles la loi reconnaît une individualité juridique et qui ont leur siége en Belgique;

C. A des étrangers ayant une année de résidence continue en Belgique, ou qui ont établi leur domicile en Belgique avec l'autorisation du Roi.

Art. 4. § 1er. Avant de pouvoir obtenir une lettre de mer, le propriétaire du navire ou le gérant, si le navire appartient à une société commerciale ou à plusieurs copropriétaires, est tenu de se présenter devant le juge de paix aux fins:

1° De lui exhiber le contrat passé avec le constructeur ou le contrat de vente constatant la propriété du navire, ainsi que le certificat de jaugeage;

2° De lui remettre une déclaration écrite stipulant que le navire réunit les conditions exigées par l'article 3, qu'il n'est pas armé en guerre et qu'il ne sera pas armé en guerre ou employé à des opérations illicites ou de nature à compromettre la neutralité belge;

3° D'affirmer cette déclaration sous serment devant ledit magistrat.

§ 2. Le juge de paix dressera procès-verbal de la prestation de serment au bas de la déclaration exigée par le § 1er, 2°, du présent article.

Le serment sera conçu en ces termes:

„Je jure et j'affirme que la présente déclaration est sincère et véritable, que le navire y indiqué n'est pas armé en guerre et que, ni par moi ni de mon consentement, il ne sera armé en guerre ni employé à des opérations illicites ou de nature à compromettre la neutralité belge.“

Les formules de la déclaration écrite ainsi que celles de la lettre de mer seront déterminées par arrêté royal.

Art. 5. § 1er. Les demandes en obtention de lettres de mer doivent être accompagnés d'une copie du certificat de jaugeage et d'une ampliation de la déclaration mentionnée à l'article 4, § 1er, 2°, avec le procès-verbal de la prestation de serment.

§ 2. Si ces documents sont trouvés insuffisants ou s'il y a des raisons de croire qu'il serait fait un usage illicite de la lettre de mer, celle-ci sera refusée.

Art. 6. § 1er. Les lettres de mer cessent leurs effets:

A. Après quatre ans de durée:

B. Lorsque la propriété de plus de la moitié du navire est transférée ou lorsque le transfert d'une quotité moindre rend propriétaires de moitié du navire des étrangers n'ayant pas une année de résidence continue en Belgique, ou n'ayant pas établi leur domicile en Belgique avec l'autorisation du Roi; toutefois, lorsque ces transferts, de nature à modifier les conditions de propriété prescrites par l'article 3, ont lieu par succession ou testament, les lettres de mer ce cesseront leurs effects qu'après six mois;

C. Par le changement du nom du navire;

D. Par l'emploi du navire comme corsaire, pirate ou pour la traite, ou pour d'autres opérations illicites ou de nature à compromettre la neutralité belge;

E. En cas de prise ou de destruction du navire.

§ 2. Lorsque, à l'expiration du terme de la lettre de mer, le navire est en cours de voyage, cette lettre reste valable jusqu'au retour du navire en Belgique, sans que ce délai puisse dépasser deux ans.

Toutefois, le Ministre des Affaires étrangères peut renouveler ou faire renouveler les lettres de mer périmées sans exiger que le navire se rende dans un port belge.

Art. 7. § Ier. Les lettres de mer périmées doivent être restituées au Ministre des Affaires étrangères ou au fonctionnaire qui les a délivrées. Il n'en sera délivré de nouvelles que contre remise: I° de l'ancienne, à moins qu'il ne soit justifié de sa perte; 2° du certificat de jaugeage.

§ 2. En cas de destruction du navire ou de vente en pays étrangers, le capitaine remettra la lettre de mer à la légation ou au consulat belge, en indiquant le motif de la restitution. La légation ou le consulat en délivrera récépissé au capitaine et la fera parvenir, avec mention du motif de la restitution, au Ministre des Affaires étrangères.

§ 3. A défaut de légation ou de consulat belge sur les lieux, le capitaine sera tenu de canceller la lettre de mer en présence de son équipage, ou, à défaut de celui-ci, en présence d'un fonctionnaire public, et de transmettre la lettre au Ministre des Affaires étrangères.

Art. 8. § Ier. Le Ministre des Affaires étrangères ou le fonctionnaire délégué par lui pourra accorder des lettres de mer provisoires pour des navires achetés ou construits à l'étranger et réunissant les conditions exigées par l'article 3; elles sont valables jusqu'à ce que les formalités requises pour l'obtention des lettres de mer définitives puissent être remplies. Elles seront délivrées d'après le certificat de jaugeage du pays où le navire se trouve; elles auront une durée de deux ans au plus et cesseront, dans tous les cas, leurs effets à l'arrivée du bâtiment en Belgique.

§ 2. Le Ministre des Affaires Étrangères ou le fonctionnaire délégué par lui pourra également accorder à des Belges établis à l'étranger ou aux gérants, à l'étranger, de sociétés belges, des lettres de mer provisoires, valables pendant une année, pour des navires réunissant les conditions prévues à l'article 3. Dans ces cas, les formalités prescrites par l'article 4, § Ier, sont accomplies devant le fonctionnaire délégué par le Ministre des Affaires Etrangères.

§ 3. Il ne sera délivré de lettre de mer provisoire pour un navire se trouvant à l'étranger que sur la production d'un certificat constatant que le bâtiment se trouve en bon état de navigabilité.

Les certificats de navigabilité devront porter la signature de deux experts désignés par l'agent consulaire belge du port étranger où le navire se trouve, ou par l'agent consulaire du port le plus voisin; ils devront être visés par cet agent, qui certifiera, dans son visa, que les experts ont été désignés par lui.

§ 4. La délivrance des lettres de mer provisoires pourra, en outre, être subordonnée aux autres conditions et formalités jugées nécessaires par le Ministre des Affaires Etrangères.

§ 5. — Le Ministre des Affaires Etrangères ou le fonctionnaire délégué par lui en Belgique peut remplacer par des lettres de mer définitives les lettres de mer provisoires dont il est question au § 2 du présent article, sans que les navires soient obligés de se rendre dans un port belge.

Art. 9. — § 1er. Le Ministre des Affaires Etrangères pourra également délivrer des lettres de mer spéciales pour des navires construits en Belgique pour compte d' étrangers, afin qu'ils puissent se rendre, sous pavillon belge, dans un port étranger.

§ 2. A l'arrivée du navire à sa destination, la lettre de mer spéciale doit être remise, contre récépissé, à la légation ou au consulat belge auquel le port ressortit.

Art. 10. — Les lettres de mer pourront toujours être retirées en cas d'infraction aux dispositions de la présente loi ou s'il y a lieu de croire qu'il en sera fait un usage illicite.

Art. 11. — § 1er. Avant de faire usage d'une lettre de mer, le capitaine y apposera sa signature, qui devra être légalisée par le fonctionnaire délégué par le Ministre des Affaires Etrangères si le capitaine est en Belgique, ou par le consul s'il est à l'étranger.

§ 2. On agira de même en cas de remplacement provisoire ou définitif du capitaine.

§ 3. Il sera donné connaissance de ce changement au Ministre des Affaires Etrangères.

Art. 12. Tous capitaines de navires, sans distinction de nationalité, sont tenus, à l'entrée et à la sortie d'un port du Royaume, de présenter leurs lettres de mer aux autorités du port; faute de ce faire, tout document pourra leur être refusé et le navire pourra être retenu jusqu'à ce que les pièces requises aient été produites.

Art. 13. Les capitaines des navires belges, en entrant dans un port étranger pour y séjourner plus de vingt-quatre heures, sont tenus de se rendre en personne, au plus tard le lendemain de leur arrivée, chez le consul belge ou celui qui le représente, pour faire viser leurs lettres de mer.

Art. 14. Les capitaines des navires à vapeur faisant un service régulier vers les ports étrangers, sont tenus d'y faire viser une fois par an leurs lettres de mer, et ce, lors de leur première arrivée dans l'année.

Art. 15. Les lettres de mer périmées ou annulées seront retirées d'office par les autorités des ports belges et par les consuls à l'étranger.

Art. 16. Le capitaine sera tenu de faire inscrire en lettres apparentes et distinctes le nom du navire et celui du port d'attache sur la poupe du navire.

Art. 17. — § 1er. Le capitaine naviguant sous pavillon belge sans lettre de mer régulière, sera passible d'une amende de cinq cents francs à cinq mille francs et d'un emprisonnement d'un mois à deux ans, ou, s'il existe des circonstances atténuantes, d'une de ces peines seulement.

§ 2. L'affirmation sous serment d'une fausse déclaration sera punissable des mêmes peines.

§ 3. Les autres infractions à la présente loi seront punies d'une amende de cinquante francs à deux mille francs.

Art. 18. — Les articles 66, 67 et 69, § 2, du Code pénal sont applicables aux délits prévus par la présente loi.

Art. 19. — § 1er. Tout individu, belge ou étranger, qui aura commis hors du territoire du Royaume, un délit prévu par la présente loi, pourra être poursuivi en Belgique.

§ 2. Sont également compétents: le tribunal du lieu de la résidence de l'inculpé ou de sa dernière résidence connue; celui du lieu où il aura été trouvé, et celui dans le ressort duquel se trouve le port d'attache du navire. A leur défaut, la connaissance du délit appartiendra au tribunal correctionnel de Bruxelles.

§ 3. La présente disposition ne déroge pas à la compétence des tribunaux consulaires dans les pays hors de chrétienté.

Art. 20. — § 1er. Les fonctionnaires du commissariat maritime et les fonctionnaires et employés de l'administration des douanes et accises en Belgique ainsi que les consuls belges à l'étranger, dresseront procès-verbal de toutes les infractions à la présente loi; ces procès-verbaux, affirmés sous serment le plus tôt possible et, au plus tard, pendant le deuxième jour après celui de leur clôture, feront foi jusqu'à preuve contraire.

§ 2. L'affirmation sous serment des procès-verbaux rédigés en Belgique sera faite devant le juge de paix ou le chef de l'administration communale au lieu où l'infraction aura été constatée.

§ 3. L'affirmation sous serment n'est pas requise lorsque le procès-verbal est rédigé par un consul, dans un port où il n'existe pas d'autorité belge pouvant recevoir le serment.

Art. 21. La présente loi ne s'applique pas aux navires de l'Etat.

Art. 22. Les bâtiments de pêche doivent être munis d'une déclaration du propriétaire, certifiée exacte par l'administration communale, conforme à la formule qui sera déterminée par arrêté royal.

Art. 23. La loi du 20 janvier 1873 est abrogée.

L'article 6 de la présente loi est rendu applicable aux lettres de mer délivrées à l'époque de sa mise en vigueur.

Promulgons la présente loi, ordonnons qu'elle soit revêtue du sceau de l'Etat et publiée par le Moniteur.

Donné à Ostende, le 20 septembre 1903.

Léopold.

Par le Roi:

Le Ministre des Affaires Étrangères,
P. de Faverau.

Le Ministre des Finances et des Travaux Publics,
P. de Smet de Naeyer,

Vu et scellé du sceau de l'État:

Le Ministre de la Justice,
J. Van den Heuvel.

79.

GRANDE-BRETAGNE, NORVÈGE.

Arrangement concernant la communication télégraphique entre les parties contractantes; signé à Stockholm, le 2 février 1905.

Overenskomster med fremmede Stater. No. 2, 1905.

Agreement between the Norwegian and the British Government respecting telegraphic communication between Norway and the United Kingdom.

The Norwegian and British Government recognizing that the provision of, and control over, the means of telegraphic communication between Norway and the United Kingdom is a matter in which both Governments are jointly interested, have agreed as follows:

I.

The concessions of the Great Northern Telegraph Company for their Peterhead — Egersund Cable shall not be renewed beyond the 1st of January 1911 without previous consultation between the two Governments.

The Norwegian and British Telegraph Administrations shall in good time before the expiry of the concessions submit to discussion the question whether they are to be renewed or not.

II.

No new concession shall be granted to any Company or private individual for the establishment of submarine cables between the two Countries without previous consultation between the two Governments.

III.

No concession shall be granted to any company or private individual for the establishment of communication between the two Countries by means of wireless telegraphy without previous consultation between the two Governments.

Done in duplicate and signed at Stockholm this 2nd day of February 1905.

Rennell Rodd.
Aug. Gyldenstolpe.

NOUVEAU

RECUEIL GÉNÉRAL

DE

TRAITÉS

ET

AUTRES ACTES RELATIFS AUX RAPPORTS DE DROIT INTERNATIONAL.

CONTINUATION DU GRAND RECUEIL

DE

G. FR. DE MARTENS

PAR

Felix Stoerk
Professeur de droit public à l'Université de Greifswald
Membre de l'Institut de droit international.

DEUXIÈME SÉRIE.

TOME XXXIII.

TROISIÈME LIVRAISON.

LEIPZIG
LIBRAIRIE DIETERICH
THEODOR WEICHER
1906.

80.

GRÈCE, ESPAGNE.

Traité de commerce et de navigation; signé à Paris, le 23 septembre 1903.*)

Sa Majesté le Roi des Hellènes et Sa Majesté le Roi d'Espagne animés du désir de faciliter et d'étendre les relations de Commerce et de Navigation entre la Grèce et l'Espagne et reconnaissant l'utilité de déterminer les droits, privilèges et attributions des Consuls Généraux, Consuls, Vice-Consuls et Agents Consulaires Hellènes et Espagnols réciproquement admis à résider dans leurs Etat respectifs, ont résolu de conclure un Traité de Commerce et de Navigation, et ils ont à cet effet nommé pour leurs Plénipotentiaires, savoir:

Sa Majesté le Roi des Hellènes, Mr. Nicolas P. Délyanni, Son Envoyé Extraordinaire et Ministre Plénipotentiaire en France et en Espagne, Grand Commandeur de l'Ordre Royal du Sauveur et Grand'Croix de l'Ordre Royal et distingué de Charles III, de l'Ordre Royal d'Isabelle la Catholique et d'autres ordres.

Sa Majesté le Roi d'Espagne, Don Fernando de Léon y Castillo, Marquis del Muni, Chevalier du Collier de l'Ordre Royal et distingué de Charles III, Grand'Croix de la Légion d'Honneur de France, de Saint Maurice et Saint Lazare d'Italie, de la Conception de Villaviciosa de Portugal et de l'Etoile Polaire de Suède, etc. etc. etc., Son Ambassadeur à Paris.

Article I.

Il y aura pleine et entière liberté de commerce et de navigation entre la Grèce et l'Espagne.

Les sujets de chacune des Hautes Parties contractantes auront dans les territoires de l'autre Partie le même droit que les nationaux de posséder toute espèce de propriété mobilière ou immobilière, de l'acquérir et d'en disposer par vente, échange, donation, testament ou d'autre manière, ainsi que d'hériter ab intestat. Ils jouiront, relativement à l'exercice du com-

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*) Les ratifications ont été échangées à Paris, le 1/11 novembre 1904.

merce et des industries, des mêmes droits que les nationaux et ne seront soumis à aucune imposition autre ou plus élevée que ceux-ci, ils seront exempts de toute fonction officielle ou municipale et de tout service personnel soit dans les armées de terre ou de mer, soit dans la milice et la garde nationale, ainsi que de toutes réquisitions et prestations militaires et de toute contribution extraordinaire de guerre ou d'emprunt forcé, en tant que ces contributions et emprunts ne seront pas imposés sur la propriété foncière.

Article II.

Les produits du sol et de l'industrie Helléniques et réciproquement les produits du sol et de l'industrie Espagnols, provenant directement de la Grèce et de l'Espagne jouiront en Espagne et réciproquement en Grèce de tous les bénéfices et avantages douaniers qui sont accordés actuellement ou qui pourraient être accordés à l'avenir à d'autres pays étrangers par des Traités ou des Conventions de Commerce.

Les dits produits Helléniques ou Espagnols déposés dans un entrepôt officiel de commerce d'un autre pays ou ayant passé en transit par un autre Etat jouiront également en Espagne et réciproquement en Grèce des mêmes avantages.

Toutefois dans ces deux derniers cas on devra justifier soit le dépôt, soit le transit dans les formes établies ou qui pourraient être établies à l'avenir par la législation Espagnole et réciproquement par la législation Hellénique.

Il est en outre convenu que les dispositions qui précèdent ne sont pas applicables aux avantages douaniers spéciaux accordés actuellement ou qui pourraient être accordés ultérieurement par l'Espagne au Portugal et à la France en vue de faciliter le commerce de frontière, et en tant que ces avantages ne seraient pas accordés à une tierce Puissance, sauf les deux Etats déjà mentionnés. Il en sera de même pour les facilités du commerce de frontière existant actuellement en Grèce ou pour les avantages douaniers spéciaux qui pourraient être accordés à l'avenir par la Grèce dans ce même but.

Les Hautes Parties contractantes s'engagent également à ne pas entraver le commerce réciproque par des prohibitions d'importation ou de transit. Elle ne pourront faire d'exceptions à cette règle que pour les monopoles d'état déjà existant ou qui pourraient être établis à l'avenir ainsi que pour les interdictions sanitaires dictées par la nécessité de protéger la sécurité des personnes, du bétail ou des plantes utiles à l'agriculture. Aucune des mesures prohibitives précitées ne pourra être établie, par l'une des Parties contractantes, qui ne soit applicable en même temps à toutes les nations ou du moins dans les mêmes circonstances à d'autres nations aussi.

Article III.

Les articles destinés à être exportés de la Grèce en Espagne ou de l'Espagne en Grèce ne pourront être assujettis dans les pays respectifs ni à

des droits plus élevés ni à des formalités de sortie autres que ceux auxquels est soumise l'exportation des mêmes articles à destination de tout autre pays étranger.

Aucune prohibition d'exportation ne sera respectivement imposée à l'égard de l'autre Partie contractante qui ne soit appliquée dans les mêmes conditions à l'exportation du même article à destination de tout autre pays étranger.

Article IV.

Les sujets de chacune des Parties contractantes seront exempts, dans les territoires et possessions de l'autre Partie, de tout droit de transit et seront traités sur le même pied que les nationaux pour tout ce qui concerne l'entreposage, les primes, facilités et restitutions de droits.

Article V.

Les marchandises de toute espèce dont l'importation dans les ports de la Grèce par des navires Helléniques est ou sera légalement permise, pourront également y être importées par des navires Espagnols, sans être assujettis à d'autres ou de plus forts droits, d'entrée, de séjour et de sortie, que si les mêmes marchandises étaient importées par des navires nationaux Réciproquement les marchandises de toute espèce dont l'importation dans les ports de l'Espagne est ou sera légalement permise par des navires Espagnols, pourront également y être importées par des navires Helléniques, sans être assujetties à d'autres ou de plus forts droits, d'entrée, de séjour et de sortie, que si les mêmes marchandises étaient importées par des navires nationaux. Cette réciprocité de traitement sera applicable aux dites marchandises, soit qu'elles proviennent directement du pays de production, soit d'un autre endroit quelconque.

De la même manière il y aura égalité parfaite de traitement en ce qui concerne l'exportation; ainsi les marchandises de toute nature qui seront légalement exportées de la Grèce par navires Espagnols et de l'Espagne par navires Helléniques pour quelque destination que ce soit, paieront, sous l'un et lautre pavillon, les mêmes droits d'exportation et elles jouiront de toutes primes ou restitutions de droits ou autres faveurs qui sont ou seront accordées, dans chacun des pays respectifs à la navigation nationale.

Article VI.

Les sociétés anonymes et autres associations commerciales, industrielles ou financières qui sont établies dans le territoire de l'une des Hautes Parties contractantes, conformément aux lois en vigueur dans ce pays, pourront exercer sur le territoire de l'autre Partie tous les droits qui sont accordés aux sociétés analogues de l'état le plus favorisé.

Article VII.

Les sujets de chacune des Hautes Parties contractantes jouiront, dans le territoire de l'autre Partie, de la même protection que les nationaux

pour tout ce qui concerne la propriété des marques de fabrique ou de commerce ainsi que des dessins ou modèles industriels et de fabrique de toute espèce.

Le droit exclusif d'exploiter un dessin ou modèle industriel ou de fabrique ne peut avoir, au profit des Hellènes en Espagne et, réciproquement au profit des Espagnols en Grèce, une durée plus longue que celle fixée par la loi du pays à l'egard des nationaux. Si le dessin ou modèle industriel ou de fabrique est du domaine public dans le pays d'origine, il ne peut être l'objet d'une jouissance exclusive dans l'autre pays. Les dispositions des deux paragraphes qui précèdent sont également applicables aux marques de fabrique ou de commerce. Les Hellènes ne pourront revendiquer en Espagne, îles adjacentes et possessions Espagnoles, la propriété exclusive d'une marque, d'un modèle ou d'un dessin, s'ils ne se sont préalablement conformés aux lois et règlements sur cette matière qui sont ou seront en vigueur en Espagne. Réciproquement les sujets Espagnols ne pourront revendiquer en Grèce la propriété exclusive d'une marque, d'un modèle ou d'un dessin, s'ils ne se sont préalablement conformés aux lois et règlements sur cette matière qui sont ou seront en vigueur en Grèce.

Article VIII.

Les commis-voyageurs qui se rendent en Grèce pour le compte d'une maison établie en Espagne seront traités en ce qui se réfère à la patente ainsi qu'à l'importation et la réexportation des échantillons qu'ils auraient avec eux, comme les commis-voyageurs de la nation la plus favorisée; et réciproquement, il en sera de même pour les commis-voyageurs Hellènes en Espagne.

Article IX.

Seront considérés comme navires Hélléniques ou Espagnols tous ceux qui doivent être reconnus comme navires Hélléniques, d'après les lois du Royaume de Grèce, ou navires Espagnols, d'après les lois du Royaume d'Espagne.

Aucuns droits de tonnage, de port, de pilotage, de fanaux, de quarantaine, de courtage, de balisage, de quai ou autres charges qui pèsent, sous quelque dénomination que ce soit, sur la coque du navire et sont perçus au nom ou au profit du Gouvernement, de fonctionnaires publics, de particuliers, de corporations ou d'établissements quelconques, ne seront imposés à l'arrivée, séjour et sortie, dans les ports de l'un des deux Pays aux bâtiments de l'autre qui ne seraient pas également et dans les mêmes conditions imposés aux navires nationaux.

Cette égalité de traitement aura réciproquement son effet à l'égard des navires respectifs de quelque part ou place qu'ils arrivent et quelle que soit leur destination à leur départ.

Article X.

Il est réciproquement convenu que le cabotage, tant maritime que fluvial, ainsi que les différentes branches de la pêche dans les eaux territoriales demeurent réservés au pavillon national dans les états respectifs.

Article XI.

Chacune des Hautes Parties contractantes consent à admettre des Consuls Généraux, Consuls, Vice-Consuls et Agents Consulaires dans tous ses ports, villes et possessions, sauf dans les localités qu'elle jugerait convenable d'excepter, pourvu que cette réserve soit également appliquée à tous les autres Etats. Les dits fonctionnaires jouiront réciproquement dans les territoires de l'autre Partie de tous les privilèges, exemptions et immunités dont jouissent les agents du même rang et de la même qualité de la nation la plus favorisée. Il est toutefois bien entendu que les deux Gouvernements se réservent la faculté de refuser leur exéquatur en cas d'objection contre la personne nommée en ces fonctions.

Les Consuls Généraux, Consuls, Vice-Consuls et Agents Consulaires, sujets de l'Etat qui les a nommés, ne pourront être ni arrêtés, ni conduits en prison, excepté pour les faits et actes que la législation pénale du pays de leur résidence qualifie de crimes et punit comme tels.

Si les dits fonctionnaires voulaient exercer le commerce, ils seront tenus de se conformer, pour tout ce qui se réfère à leur négoce et transactions commerciales, aux mêmes lois et usages auxquels sont soumis dans le lieu de leur résidence les particuliers de leur nation et les sujets des Etats les plus favorisés.

Article XII.

Les archives consulaires seront inviolables et les autorités locales ne pourront visiter ni saisir les papiers qui en font partie. Ces papiers devront toujours être complètement séparés des livres et papiers relatifs au commerce et à i'industrie que pourraient exercer les agents de l'ordre consulaire respectifs.

Article XIII.

Les Consuls Généraux, Consuls, Vice-Consuls et Agents Consulaires respectifs seront exclusivement chargés de l'ordre intérieur à bord des navires de commerce de leur nation et connaîtront seuls de tous les différents qui se seraient élevés en mer ou s'élèveront dans le port entre le capitaine, les officiers et les hommes de l'équipage. Les autorités locales ne pourront intervenir que lorsque les désordres survenus à bord seraient de nature à troubler l'ordre public dans le port ou à terre, ou lorsqu'une personne du pays ou ne faisant pas partie du rôle de l'équipage s'y trouverait mêlée.

Les dits agents du service consulaire pourront faciliter aux capitaines l'expédition des navires de leur nation et les accompagner devant les tribunaux et devant les bureaux de l'administration, en tant que la législation du pays ne s'y opposerait pas pour leur servir d'interprètes et d'agents dans les affaires qu'ils auraient à traiter ou dans les demandes qu'ils auraient à formuler.

Les fonctionnaires publics du pays ne pourront, dans les ports ou réside un Consul ou un Agent Consulaire de l'un des deux Etats respectifs, opérer ni recherches, ni visites autres que les visites ordinaires de la douane

ou de la santé à bord des navires de commerce sans en avoir préalablement donné avis au Consul afin qu'il puisse assister à la visite. L'invitation qui sera adressée à cet effet au Consul Général, Consul, Vice-Consul et Agent Consulaire indiquera une heure précise, et s'il négligeait de s'y rendre en personne ou de s'y faire représenter par un délégué, il sera procédé en leur absence.

Avis sera également donné aux agents consulaires pour qu'ils puissent assister, en tant que la législation du pays le permettrait aux déclarations que les capitaines ou les équipages des navires de leur nation auraient à faire devant les tribunaux ou les administrations locales. S'ils négligeaient de s'y rendre ou de se faire représenter à l'heure indiquée dans la citation, il sera procédé sans eux.

Article XIV.

Les Consuls Généraux, Consuls, Vice-Consuls et Agents Consulaires auront le droit de s'adresser aux autorités compétentes des Etats respectifs dans toute l'étendue de leur arrondissement consulaire pour réclamer contre toute infraction aux traités ou conventions existant entre l'Espagne et la Grèce et pour protéger les droits et intérêts de leur nationaux. S'il n'était pas fait droit à leur réclamations, les dits agents, en l'absence d'un agent diplomatique de leur nation, pourront recourir directement au Gouvernement du pays dans lequel ils exercent leurs fonctions.

Article XV.

Les Consuls Généraux, Consuls, Vice-Consuls et Agents Consulaires auront le droit de recevoir, dans leur chancellerie, dans leur demeure privée, dans celle des parties ou à bord des bâtiments, les déclarations des capitaines, des gens d'équipage des navires de leur pays, des passagers qui se trouveraient à bord et de tous autres sujets de leur nation.

Les dits Consuls ou Agents auront le droit de recevoir tout acte notarié, destiné à être exécuté dans leur pays, et qui interviendra soit entre leurs nationaux seulement, soit entre un ou plusieurs de leurs nationaux et des personnes du pays de leur résidence. Ils pourront même recevoir les actes dans lesquels les sujets du pays où ils résident seront seuls parties, lorsque ces actes se rapportent exclusivement à des biens situés ou à des affaires à traiter sur le territoire de la nation à laquelle appartient le Consul ou l'Agent devant qui ces actes seront passés.

Tous les actes dont il s'agit, soit en original, en copie ou en traduction, dûment légalisés par les dits agents et scellés du sceau officiel des consulats et vice-consulats, feront foi en justice dans tous les tribunaux d'Espagne, îles adjacentes et possessions Espagnoles et dans ceux du Royaume de Grèce.

Article XVI.

Les Consuls Généraux, Consuls, Vice-Consuls et Agents Consulaires pourront faire arrêter les officiers, matelots et toutes autres personnes faisant partie de l'équipage des bâtiments de guerre et de commerce de

leur nation, qui seraient prévenus ou accusés d'avoir déserté les dits bâtiments sur le territoire même de l'une des Hautes Parties contractantes, pour les renvoyer à bord ou les faire transporter dans leur pays. A cet effet ils s'adresseront par écrit aux autorités locales compétentes des pays respectifs et leur feront la demande de ces déserteurs, en justifiant, le cas échéant, par l'exhibition des registres du navire, du rôle de l'équipage ou par d'autres documents officiels, que les hommes qu'ils réclament faisaient partie du dit équipage. Sur cette seule demande, ainsi justifiée, la remise des déserteurs ne pourra leur être refusée, à moins qu'il ne soit dûment prouvé qu'ils étaient sujets du pays où l'extradition est réclamée, au moment de leur inscription sur le rôle.

Il sera donné aux dits agents consulaires toute aide et protection pour la recherche, la saisie et l'arrestation de ces déserteurs, qui seront mêmes détenus et gardés dans les prisons du pays à la réquisition et aux frais des consuls jusqu'à ce que ces agents aient trouvé une occasion de les renvoyer à leur pays: si pourtant cette occasion ne se présentait pas dans un délai de trois mois à compter du jour de l'arrestation, ou si les frais de leur détention n'étaient pas régulièrement payés, les déserteurs seraient mis en liberté et ne pourraient plus être arrêtés pour la même cause.

Si le déserteur avait commis quelque crime ou délit à terre, son extradition serait différée jusqu'à ce que le tribunal qui a droit d'en connaître ait rendu son jugement et que celui-ci ait eu son effet.

Article XVII.

A moins de stipulations contraires entre les armateurs, chargeurs et assureurs, toutes les avaries essuyées en mer par les navires des deux pays, soit qu'ils abordent volontairement au port, soit qu'ils se trouvent en relâche forcée, seront réglées par les Consuls Généraux, Consuls, Vice-Consuls et Agents Consulaires des pays respectifs. Si cependant des habitants du pays ou des sujets d'une tierce nation se trouvaient intéressés dans les dites avaries et si les parties ne pouvaient s'entendre à l'amiable, le recours à l'autorité locale compétente serait de droit.

Article XVIII.

Toutes les opérations relatives au sauvetage des navires Espagnols naufragés sur les côtes de la Grèce et des navires Helléniques naufragés sur les côtes de l'Espagne, îles adjacentes et possessions Espagnoles, seront respectivement dirigées par les Consuls Généraux, Consuls et Vice-Consuls d'Espagne en Grèce et par les Consuls Généraux, Consuls et Vice-Consuls de Grèce en Espagne et, jusqu'à leur arrivée à l'endroit du naufrage, par les Agents Consulaires respectifs là où il existerait des agences consulaires. Dans les lieux et ports où il n'existerait pas d'agence, les autorités locales auront, en attendant l'arrivée du Consul dans l'arrondissement duquel le naufrage aurait eu lieu et qui devra être immédiatement prévenu, à prendre toutes les mesures nécessaires pour la protection des individus et des effets naufragés. Les autorités locales n'auront d'ailleurs à intervenir que pour

maintenir l'ordre, garantir les intérêts des sauveteurs, s'ils ne font pas partie des équipages naufragés, et assurer l'exécution des dispositions à observer pour l'entrée et la sortie des marchandises sauvées. Il est bien entendu que ces marchandises ne seront soumises à aucun droit de douane à moins qu'elles ne soient livrées à la consommation dans le pays où le naufrage aurait eu lieu.

L'intervention des autorités locales dans ces différents cas n'occasionnera des frais d'aucune espèce, hors ceux auxquels donneraient lieu les opérations du sauvetage et la conservation des effets sauvés, ainsi que ceux auxquels seraient soumis en pareils cas les navires nationaux.

Article XIX.

En cas de décès d'un Espagnol en Grèce ou d'un Hellène en Espagne ou dans les îles adjacentes et possessions Espagnoles, s'il n'y a aucun héritier connu ou aucun exécuteur testamentaire institué par le défunt, les autorités locales compétentes devront en informer les Consuls ou Agents Consulaires de la nation à laquelle appartenait le défunt afin, qu'il puisse être immédiatement donné connaissance aux parties intéressées. En cas de minorité des héritiers ou d'absence des exécuteurs testamentaires, les Agents Consulaires, concurremment avec les autorités locales compétentes, auront le droit conformément aux lois de leurs pays respectifs, de procéder à tous les actes nécessaires pour la conservation et l'administration de la succession, notamment d'apposer et de lever les scellés, de dresser l'inventaire, d'administrer et de liquider la succession, en un mot, de prendre toutes les mesures nécessaires pour la sauvegarde des intérêts des héritiers, excepté le cas, où naîtraient des contestations lesquelles devraient être décidées par les tribunaux compétents du pays où la succession sera ouverte.

Les Consuls Généraux, Consuls, Vice-Consuls et Agents Consulaires sont exclusivement chargés des actes d'inventaire ou des autres opérations pratiquées pour la conservation des biens héréditaires laissés par les gens de mer, les passagers et autres voyageurs de leur nation morts à bord des navires de leur pays ou à terre, soit pendant la traversée, soit dans le port de l'arrivée.

Article XX.

Jusqu'à ce qu'une des Hautes Parties contractantes n'ait notifié à l'autre, une année à l'avance, son intention de faire cesser les effets du présent traité, il continuera d'être en vigueur pour le terme d'une autre année et ainsi de suite d'année en année, à compter du jour ou l'une des Parties l'aura dénoncé.

Le présent traité sera ratifié aussitôt que faire se pourra, et les ratifications seront échangées à Paris.

En foi de quoi les plénipotentiaires ont signé le présent traité et ont apposé le sceau de leurs armes.

Fait à Paris le vingt trois Septembre 1903.

N. Délyanni.
F. de Léon Y Castillo.

81.

ETATS-UNIS D'AMÉRIQUE, ETHIOPIE.

Traité de commerce; signé à Addis-Ababa, le 27 décembre 1903.*)

Publication officielle des Etats-Unis d'Amérique.

His Majesty Menelik II, King of Kings of Ethiopia, and the United States of America, having agreed to regulate the commercial relations between the two countries and develop them, and render them more and more advantageous to the two contracting Powers:

His Majesty Menelik II, King of Kings of Ethiopia, in the name of the Empire, and Robert P. Skinner, in the name of the United States of America, have agreed and stipulated that which follows:

Article I.

The citizens of the two Powers, like the citizens of other countries, shall be able freely to travel and to transact business throughout the extent of the territories of the two contracting Powers, while respecting the usages and submitting themselves to the tribunals of the countries in which they may be located.

Article II.

In order to facilitate commercial relations, the two Governments shall assure, throughout the extent of their respective territories, the security of those engaged in business therein, and of their property.

Sa Majesté Menilek II, Roi des Rois d'Ethiopie et les Etats-Unis d'Amérique, ayant convenu de régler les relations Commerciales entre les deux pays, de les développer et de les rendre de plus en plus avantageuses aux deux puissances contractantes:

Sa Majesté Menilek II, Roi des Rois d'Ethiopie, au nom de Son Empire et Robert P. Skinner, muni des pleins pouvoirs du Président Roosevelt, au nom des Etats-Unis d'Amérique ont convenu et stipulé ce qui suit:

Article 1.

Les citoyens des deux puissances pourront en toute liberté, comme les citoyens des autres pays, circuler et commercer dans l'étendue des territoires des deux puissances Contractantes en respectant les usages et se soumettant aux tribunaux du pays où ils se trouveront.

Article 2.

Afin de faciliter les relations commerciales, les deux Gouvernements assureront, dans l'étendue de leur territoires respectifs, la sécurité des commerçants et de leurs biens.

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*) Ratifié.

Article III.

The two contracting Governments shall reciprocally grant to all citizens of the United States of America and to the citizens of Ethiopia, all the advantages which they shall accord to other Powers in respect to customs, duties, imposts and jurisdiction.

Article IV.

Throughout the extent of the Ethiopian Empire, the citizens of the United States of America shall have the use of the telegraphs, posts and all other means of transportation upon the same terms as the citizens of other Powers.

Article V.

In order to perpetuate and strengthen the friendly relations which exist between Ethiopia and the United States of America, the two Governments agree to receive reciprocally, representatives acceptable to the two Governments. These representatives shall not however, be maintained at their posts, unless they are agreeable to the receiving Power, in such cases, they shall be replaced.

Article VI.

The duration of the present treaty shall be ten years. It is understood that at the expiration of these ten years the two Governments shall be able to modify all or any part of this treaty. The Government which shall request at that time the modification, shall make its proposal to the other Government one year before the expiration of the treaty.

Article VII.

The present treaty shall take effect if ratified by the Government of the United States, and if this ratification shall

Article 3.

Les deux gouvernements contractants feront réciproquement bénéficier tous les citoyens des Etats-Unis d'Amérique et les citoyens éthiopiens de tous les avantages qu'ils accorderont à d'autres puissances comme droits de douanes, d'impôts ou de juridiction.

Article 4.

Dans l'étendue de l'Empire Ethiopien, les citoyens des Etats-Unis d'Amérique auront l'usage des télégraphes, postes et tous autres moyens de transports aux mêmes tarifs que les citoyens des autres puissances.

Article 5.

Pour perpétuer et fortifier les rapports amicaux qui existent entre l'Ethiopie et les Etats-Unis d'Amérique, les deux Gouvernements conviennent de recevoir réciproquement des représentants agréés par les deux Gouvernements — Ces représentants ne pourront toutefois être maintenus à leur poste que s'ils sont agréables à l'autre puissance: en cas contraire ils seront remplacés.

Article 6.

La durée du présent traité sera de dix années; il est entendu qu'a l'expiration des dix années les deux Gouvernements pourront modifier tout ou partie de ce traité — Celui des deux Gouvernements qui demandera à ce moment une modification devra en faire la proposition à l'autre gouvernement une année avant l'expiration du traité.

Article 7.

Ce présent traité entrera en vigueur s'il est ratifié par le Gouvernement des Etats-Unis et si cette ratification

be notified to His Majesty Menelik II, King of Kings of Ethiopia, within the period of one year.

His Majesty Menelik II King of Kings of Ethiopia, in the name of his Empire; Robert P. Skinner in virtue of his full powers, in the name of the United States of America, have signed the present treaty, written in double text, Amharic and French, and in identical terms.

Done at Addis-Ababa, this seventeenth day of December, one thousand eight hundred and ninety-six in the year of grace (corresponding to December twenty-seventh, 1903).

est signifiée à Sa Majesté Menilek II, Roi des Rois d'Ethiopie, dans le délai d'une année.

Sa Majesté Menilek II, Roi des Rois d'Ethiopie, au nom de Son Empire, et Robert P. Skinner en vertu de ses pleins pouvoirs, au nom des Etats-Unis d'Amérique, ont signé le présent traité rédigé en double texte amharigua et français en tout semblables.

Fait à Addis-Ababa le dix sept décembre mil huit cent quatre vingt seize de l'an de grâce (correspondant au 27 décembre 1903).

[Seal of *Menelik II.*]
(Signed) *Robert P. Skinner.*

82.

ITALIE, CUBA.

Traité d'amitié, de navigation et de commerce; signé à la Havane, le 29 décembre 1903.

Atti Parlamentari. Camera dei Deputati. No. 533.

Sua Maestà il Re d'Italia e Sua Eccellenza il Presidente della Repubblica di Cuba, desiderando conservare e rafforzare le amichevoli relazioni esistenti e promuovere scambi e commerci tra i due paesi, hanno deciso di conchiudere un trattato d'amicizia, navigazione e commercio, nominando perciò a Loro Plenipotenziario:

Sua Maestà il Re d'Italia,

il signor Oreste Savina, cavaliere degli ordini dei Santi Maurizio e Lazzaro e della Corona d'Italia, ecc., ecc., suo Ministro residente presso la Repubblica di Cuba; e

Sua Eccellenza il Presidente della Repubblica di Cuba,

il signor Carlo de Zaldo, suo segretario di Stato e giustizia;

i quali, dopo di avere scambiato i loro pieni poteri e trovatili in buona e debita forma, hanno convenuto negli articoli seguenti:

Art. I. Vi sarà perfetta pace ed amicizia sincera tra il Regno d'Italia e la Repubblica cubana. Le Alte Parti contraenti faranno ogni maggiore sforzo perchè questa amicizia e buona armonia si mantengano costantemente ed inalterate fra le due nazioni e fra i rispettivi loro cittadini, senza eccezione di persone o di luoghi.

Art. II. Le Parti contraenti convengono che, in quanto si riferisce a commercio e navigazione, ogni e qualsiasi privilegio, favore o immunità, che una delle Parti contraenti avesse già concesso, o concedesse in avvenire, a sudditi o cittadini di qualsiasi altro Stato, si estenderà immediatamente ed incondizionatamente ai cittadini dell'altra Parte contraente, essendo loro intenzione che i loro commerci e la loro marina siano sotto ogni rispetto trattati dall'altra Potenza sulla base della nazione la più favorita.

Art. III. I prodotti e le manifatture italiane che s'importassero nella Repubblica cubana, ed i prodotti e le manifatture cubane che s'importassero in Italia pel consumo, magazzinaggio, riesportazione o transito, saranno considerati della stessa maniera, e particolarmente non andranno soggetti ad altri nè più alti diritti generali, municipali o locali, dei prodotti, delle manifatture e delle merci di una terza nazione che sia più favorita a questo riguardo. Non si imporranno altri nè più alti diritti nel Regno d'Italia alla esportazione di qualsiasi merce per la Repubblica cubana, o nella Repubblica cubana alla esportazione di qualsiasi merce pel Regno d'Italia, che quelli che s'impongano alla esportazione di eguali merci per un paese più favorito a questo riguardo.

Nessuna delle Parti contraenti stabilirà rispetto all'altra proibizione di importazione, esportazione, riesportazione o transito che non sia applicabile in eguali circostanze ad un terzo paese più favorito a questo riguarda. Ciò nondimeno la legislazione speciale di ciascuno dei due Stati non soffrirà modificazioni per quanto concerne articoli il cui transito fosse o potesse essere proibito, e le due Alte Parti contraenti si riservano il diritto di assoggettare ad autorizzazioni speciali il transito delle armi e munizioni da guerra.

Per quanto si riferisce à diritti locali, dogane, formalità, senserie, modelli o campioni introdotti da commessi viaggiatori e qualsiasi altra cosa relativa al commercio, i cittadini italiani in Cuba ed i cittadini cubani in Italia godranno del trattamento della nazione più favorita.

Nessuna proibizione o restrizione nella importazione od esportazione potrà introdursi nel commercio reciproco dei due paesi, a meno che non fossero egualmente applicate a tutte le altre nazioni o per motivi di salute pubblica, o per impedire la propagazione di epizoozie, la perdita di raccolti o per motivi di guerra.

Art. IV. Vi sarà reciprocamente piena e completa libertà di commercio e di navigazione pei nazionali e per le navi delle Alte Parti contraenti nelle città, porti, fiumi ed in qualsiasi luogo dei due Stati e loro possedimenti, nei quali si permetta già, o possa in avvenire permettersi, l'entrata ai sudditi o alle navi di qualsiasi altra nazione straniera.

Gli italiani in Cuba ed i cubani in Italia potranno reciprocamente entrare, viaggiare o dimorare con tutta libertà in qualsiasi parte dei territori o possedimenti rispettivi, salvo il diritto di espulsione degli stranieri perniciosi, che ambedue i Governi si riservano, e godranno a questo fine, tanto per le loro persone quanto pei loro beni, della stessa protezione e sicurezza che i nazionali.

Potranno in tutta l'estensione dei due territori esercitare l'industria, praticare il commercio tanto all'ingrosso quanto al minuto, prendere in affitto o possedere le case, i fondachi, gli stabilimenti od i terreni che loro fossero necessari; trasportare merci e denaro e ricevere consegnazioni così dall'interno come dall'estero, pagando i diritti e le patenti stabilite dalle leggi vigenti pei nazionali.

Saranno egualmente liberi nelle loro vendite e compre per stipulare e fissare il prezzo delle merci, degli effetti e degli oggetti di qualsiasi genere tanto importati quanto nazionali, sia che li vendano all'interno o che li destinino alla esportazione, però assoggettandosi alle leggi e regolamenti del paese.

Potranno sbrigare ed amministrare i loro negozi personalmente o farsi pei medesimi rappresentare od assistere da persone debitamente autorizzate sia nella compra o vendita dei loro beni, effetti o merci, sia nei manifesti di dogana, o nel caricamento, scaricamento e spedizione delle loro navi. Per ultimo, non saranno sottoposti ad altri oneri, contribuzioni, diritti od imposte oltre quelle cui fossero sottoposti i nazionali.

I cittadini di ciascuna delle due Alte Parti contraenti godranno nel territorio dell'altra gli stessi diritti che i nazionali per quanto concerne i brevetti d'invenzione, etichette, marche di fabbrica e disegni, purchè adempiano le prescrizioni indicate dalla legge. Per quanto concerne la proprietà letteraria ed artistica i cittadini di ciascuna delle Alte Parti contraenti godranno reciprocamente nel territorio dell'altra del trattamento della nazione la più favorita.

Art. V. Saranno rispettate le abitazioni, le fabbriche, i magazzini e i negozi dei cittadini di ciascuna delle Parti contraenti nei dominii e possedimenti dell'altra, come pure lo saranno tutte le località annesse e destinate ad abitazione o al commercio.

Non si permetterà di fare perquisizioni o visite domiciliari in queste abitazioni o loro dipendenze, esaminare o ispezionare libri, carte o conti, se non alle condizioni e colle formalità prescritte dalle leggi per i naturali del paese.

Art. VI. I cittadini delle due nazioni godranno nel territorio dell'una e dell'altra della più completa e costante protezione per le loro persone e proprietà. Potranno ricorrere ai tribunali di giustizia per la tutela e difesa dei loro diritti in tutte le istanze ed in tutti i gradi di giurisdizione stabiliti dalle leggi.

Avranno facoltà di avvalersi degli avvocati, patrocinatori od agenti di qualsiasi natura stimino a proposito per rappresentarli e agire in loro nome; il tutto conforme alle leggi del paese; infine godranno a questo

riguardo degli stessi diritti e privilegi che sono o saranno concessi ai nazionali, assogettandosi pel godimento di tali franchige alle stesse condizioni di questi.

Art. VII. Gli italiani in Cuba ed i cubani in Italia godranno del beneficio della assistenza giudiziaria, conformandosi alle leggi del paese dove l'assistenza per povertà fosse invocata.

Art. VIII. Gli italiani in Cuba ed i cubani in Italia avranno come i nazionali il diritto di acquistare, possedere e trasmettere per successione, testamento, donazione, od in qualunque altro modo, i beni mobili situati nei rispettivi territori, senza che possano essere obbligati a pagare altri o più alti diritti di successione o di traslazione di dominio, che quelli imposti in casi simili ai nazionali stessi.

In quanto all'acquisto o possesso dei beni immobili gli italiani in Cuba ed i cubani in Italia saranno trattati come i sudditi o cittadini della nazione più favorita.

I loro eredi e rappresentanti legali potranno succedere loro in detti beni mobili ed immobili ed entrarne in possesso, tanto personalmente quanto per mezzo di procuratori, nello stesso modo e colle stesse forme legali che i naturali del paese.

I cittadini di ciascuna delle Parti contraenti che risiedono temporariamente o permanentemente nei dominii e possessioni dell'altra saranno soggetti alle leggi del paese di loro residenza, quelle specialmente che fissano i diritti e le obbligazioni degli stranieri, alle stesse condizioni che i cittadini o sudditi della nazione più favorita.

Art. IX. Gli italiani in Cuba ed i cubani in Italia saranno esenti da ogni servizio personale negli eserciti di terra e mare, guardie e milizie nazionali, come pure da requisizioni o contribuzioni di guerra, da prestanze o imprestiti forzosi, siano essi pecuniari o in natura, a meno che tali requisizioni, prestanze o contribuzioni siano imposti sulla proprietà immobile del paese, nel qual caso dovranno pagarli nel modo stesso che i nazionali. In tutti gli altri casi non potranno essere obbligati, per quanto riguarda le loro proprietà mobili ed immobili, ad altri oneri od imposte all'infuori di quelle cui siano soggetti i nazionali stessi od i cittadini della nazione più favorita. Rimane stipulato che chi reclamasse l'applicazione dell'ultima parte di questo articolo potrà scegliere tra i due trattamenti quello che più gli convenga.

Art. X. I cittadini di ognuna delle Parti contraenti godranno rispettivamente nel territorio dell'altra completa libertà di coscienza e potranno esercitare il loro proprio culto nel modo concesso dalla costituzione e dalle leggi del paese.

Art. XI. Se disgraziatamente venisse interrotta la pace tra i due Stati resta convenuto, all'oggetto di dimnuire i mali della guerra, che i cittadini dell'uno residenti nelle città, porti o territori dell'altro, e che vi esercitino il commercio o qualsiasi altra professione, potranno rimanere nella loro residenza e continuarvi i loro affari purchè non violino in verun modo le leggi del paese. Nel caso che la loro condotta facesse loro perdere questo

privilegio e quando i Governi rispettivi giudicassero necessario farli uscire dai loro territori, sarà loro concesso un termine sufficiente affinchè possano regolare i propri interessi.

In verun caso di guerra o di collisione tra le due nazioni, i beni e le proprietà di qualsiasi specie appartenenti a persone che da queste nazioni dipendano rispettivamente non potranno essere sottoposti ad incameramento o sequestro alcuno, o ad altri oneri ed imposte di cui non siano passibili i nazionali. Egualmente, durante la interruzione della pace, le somme dovute da privati, come pure i titoli di credito pubblico e le azioni bancarie od altre, non potranno essere sequestrati o confiscati a pregiudizio dei rispettivi cittadini e a beneficio del paese dove questi si trovino.

Art. XII. Le Parti contraenti convengono di accordare reciprocamente ai loro Inviati, Ministri ed Agenti rispettivi gli stessi privilegi, favori e franchige, delle quali godono e godessero in avvenire gli Inviati, Ministri ed Agenti pubblici della nazione più favorita.

Le due Parti contraenti, animate dal desiderio di evitare discussioni che potessero turbare le loro amichevoli relazioni, convengono che rispetto ai reclami o lagnanze di privati per affari di ordine civile, penale o amministrativo i loro Agenti diplomatici non interverranno se non per diniego o ritardo straordinario o illegale di giustizia, per mancanza di esecuzione di una sentenza definitiva, o, esauriti i mezzi legali, per violazione espressa dei trattati esistenti fra le Parti contraenti e delle regole del diritto internazionale, così pubblico come privato, riconosciute generalmente dalle nazioni civili.

Resta inoltre convenuto tra le Parti contraenti che i loro rispettivi Governi, eccettuati i case nei quali vi fosse colpa o mancanza di viliganza da parte dell'autorità del paese o dei suoi agenti, non si faranno reciprocamente responsabili dei danni, vessazioni od esazioni che i cittadini dell'una soffrissero nel territorio dell'altra da parte degli insorti in tempo di insurrezione o guerra civile.

Art. XIII. Per quanto concerne la polizia dei porti, il caricamento e scaricamento delle navi e la custodia di merci ed effetti, i cittadini delle due nazioni saranno soggetti alle leggi ed ordinanze locali.

Art. XIV. Le navi italiane che si rechino a porti cubani e le navi cubane che si rechino a porti italiani, con carico od in zavorra, non pagheranno altri nè più alti diritti di tonnellaggio, porto, faro, pilotaggio, quarantene od altri che colpiscano lo scafo della nave, all'infuori di quelli ai quali fossero obbligate le navi della nazione più favorita.

Per quanto concerne il trattamento locale, la collocazione delle navi, il loro caricamento e scaricamento, come le contribuzioni od imposte quali siansi nei porti, darsene, docks, rade, baie e fiumi dei due paesi, e generalmente per tutte le formalità e disposizioni alle quali possano essere soggette le navi mercantili i loro equipaggi ed i loro carichi, i privilegi, favori e vantaggi che sono concessi o si concedessero alle navi della nazione più favorita, come alle merci importate od esportate da dette navi, saranno

egualmente concessi alle navi dell'altro paese ed alle merci importate ed esportate da queste navi.

Art. XV. I diritti di navigazione, tonnellaggio ed altri che si riscuotono in proporzione alla capacità delle navi dovranno essere percetti per le navi italiane nei porti di Cuba secondo le carte di bordo di dette navi.

Reciprocamente si agirà rispetto alle navi cubane nei porti d'Italia.

Art. XVI. Le disposizioni del presente trattato non sono applicabili alla navigazione delle coste o cabotaggio, il cui regime rimane soggetto alle leggi rispettive degli Stati contraenti.

Ciò nondimeno le navi italiane in Cuba e le navi cubane in Italia potranno scaricare parte dei loro carichi nei porti di primo approdo e dirigersi in seguito col resto di detto carico ad altri porti della stessa nazione, sia per fornirvi lo sbarco del carico portatovi, sia per completarvi il carico di ritorno senza pagare in ogni porto altri nè più alti diritti che quelli pagati in simili casi dalle navi della nazione più favorita.

Art. XVII. Si eccettua parimenti dalla applicazione delle disposizioni del presente trattato tutto quanto concerne la industria della pesca, il cui esercizio resta soggetto alle singole leggi degli Stati contraenti.

Art. XVIII. Ogni qualvolta i cittadini d'una delle due Parti contraenti a causa di cattivo tempo o per qualsiasi altro motivo, si rifugiassero colle loro navi nei porti, rade, fiumi o territori dell'altra Parte contraente, dovranno essere ricevuti e trattati con amicizia, senza pregiudizio delle misure di precauzione che si stimassero necessarie, da parte del Governo interessato, ad impedire il contrabbando. Inoltre si concederà loro ogni facilitazione ed aiuto per riparare i danni sofferti, procurarsi le provviste e porsi in condizione di poter continuare il viaggio senza ostacolo nè impedimento alcuno.

Nel territorio di ciascuna delle Parti contraenti le navi mercantili dell'altra Parte, i cui equipaggi fossero incompleti in conseguenza di malattia od altre cause, potranno arruolare i marinai necessari per continuare il loro viaggio, conformandosi nondimeno alle leggi ed ordinanze locali e sotto la condizione che l'arruolamento dei marinai sia volontario da parte di questi ultimi.

Art. XIX. Se una nave da guerra o mercantile di una delle Parti contraenti incagliasse o naufragasse nel territorio dell'altra questa nave e tutte le sue parti, pertinenze ed armamento, tutti gli effetti e merci sue salvate, comprese quelle che fossero state gettate a mare, o il loro prodotto se fossero state vendute, come pure le carte trovate a bordo della nave incagliata o naufragata, saranno consegnate ai loro proprietari od ai loro agenti che le reclamino, e ciò nel termine fissato dalle leggi del Paese, e questi proprietari od agenti pagheranno solamente le spese occorse per la conservazione della proprietà o pel salvataggio, o quelle altre che una nave nazionale pagherebbe in egual caso di naufragio.

Gli effetti e merci salvati dal naufragio saranno esenti da qualsiasi diritto doganale, purchè non si destinino al consumo interno, nel qual caso

pagheranno gli stessi diritti che se fossero stati importati con una nave nazionale.

Ove, per ragioni di mal tempo, una nave dovesse rifugiarsi in un porto o incagliasse o naufragasse, i Consoli generali, Consoli, Vice-Consoli od Agenti consolari, se il proprietario o capitano od altro agente del proprietario non fossero presenti, o se presenti lo richiedessero, saranno autorizzati ad intervenire affine d'impartire i soccorsi necessari ai loro connazionali.

Sarà inoltre di competenza dei-detti Consoli generali, Consoli, Vice-Consoli ed Agenti consolari la gestione dei naufragi ed il ricupero ed il regolamento delle avarie, secondo le leggi del loro Paese, ogni qualvolta nell'avaria siano interessati solamente loro connazionali. In caso contrario la competenza sarà delle autorità locali.

Art. XX. Saranno considerate come cubane in Italia e come italiane in Cuba le navi che, navigando sotto le rispettive bandiere, siano munite dei loro registri e delle carte di bordo e documenti richiesti dalle leggi di ciascuno dei due Stati per la comprovazione della nazionalità delle loro navi mercantili.

Art. XXI. Le navi da guerra di ciascuna delle due Potenze potranno entrare, rimanere, riparare le loro avarie in quei porti dell'altra il cui accesso sia permesso alle navi della nazione più favorita, e vi saranno sottoposte agli stessi regolamenti come pure godranno degli stessi onori, vantaggi, privilegi ed esenzioni che fossero concessi a quest'ultima.

Art. XXII. I vapori incariati d'un servizio postale ed appartenenti allo Stato od a Compagnie sovvenzionate da uno dei due Stati, godranno nei porti dell'altro delle speciali facilitazioni inerenti al servizio pubblico al quale sono destinati, come pure di tutti i privilegi, immunità e favori concessi ai postali della nazione più favorita.

Eccettuato il caso di vendita giudiziaria, le navi di una delle due Parti non potranno essere nazionalizzate nell'altra senza una dichiarazione di dismissione di bandiera, rilasciata dalla autorità dello Stato dal quale esse dipendono.

Art. XXIII. I cittadini cubani godranno nelle colonie e possedimenti italiani gli stessi diritti, privilegi, libertà di commercio e di navigazione che i sudditi o cittadini della nazione più favorita, e, reciprocamente, gli abitanti delle colonie e possedimenti italiani godranno in tutta la loro estensione degli stessi diritti, privilegi e della stessa libertà di commercio e navigazione che con questo trattato si concedono in Cuba ai cittadini italiani, al loro commercio ed alla loro navigazione.

Art. XXIV. In attesa della conclusione d'una convenzione consolare, le due Alte Parti contraenti pattuiscono che i Consoli generali, Consoli, Vice-Consoli ed Agenti consolari dei due Paesi godano rispettivamente degli stessi diritti, privilegi ed immunità nei termini che furono concessi o si concedessero ai Consoli generali, Consoli, Vice-Consoli ed Agenti consolari della nazione più favorita.

Gli archivi e carte ufficiali dei funzionari consolari saranno rispettati come inviolabili e per nessun motivo potranno le autorità del paese sequestrarli o prenderne conoscenza.

Art. XXV. Il Governo cubano, qualora si promovessero, sia in Italia che in altro paese, per conto suo o per sue concessioni, per opera di privati o di società, arruolamenti di emigranti italiani per la Repubblica cubana, provvederà perchè i contratti a proporsi sieno equi e le promesse attuabili, e che gli stessi equi contratti vengano scrupolosamente eseguiti. Vigilerà in questi casi perchè il trasporto, lo sbarco e lo stabilimento di detti emigranti abbiano luogo secondo le norme dell'umanità, dell'igiene, della sicurezza; punirà infine severamente chiunque inganni in qualsiasi modo l'emigrante o ne abusi, e darà la sua maggiore protezione a quest'ultimo quando risultasse essere vittima di inganni o abusi, perchè, a termini delle leggi del paese, consegua da chi lo abbia danneggiato conveniente indennità.

Il Governo cubano accorderà appoggio ai funzionari italiani che dovessero viaggiare in servizio dell'emigrazione e ne faciliterà l'opera, sia nei porti sia nell'interno della Repubblica.

Art. XXVI. Le disposizioni del presente trattato sono applicabili ai possedimenti o colonie d'Italia all'estero, a nome delle quali sia notificata a questo effetto l'adesione al medesimo, con sei mesi di anticipazione, dal Rappresentante d'Italia in Cuba al Segretario di Stato della Repubblica di Cuba, finchè duri il trattato.

Art. XXVII. Le controversie che si suscitassero circa alla interpretazione ed alla esecuzione del presente trattato, o sopra le conseguenze di alcuna violazione dello stesso, si sommetteranno, esauriti che siano i mezzi di un accordo diretto ed amichevole, alle decisione di Commissioni d'arbitraggio, ed il risultato di tale arbitraggio sarà obbligatorio per ambi i Governi.

I membri di queste Commissioni saranno nominati di comune consenso dai due Governi, o, non verificandosi l'accordo, ciascuna delle Parti nominerà un arbitro o un numero legale di arbitri, e gli arbitri così nominati ne nomineranno un terzo pel caso di discordia.

Le parti contraenti sceglieranno in ciascun caso la procedura dell'arbitraggio e, non riuscendo ad intendersi al riguardo, la Commissione d'arbitraggio avrà facoltà di determinare innanzi tutto tale procedura.

Art. XXVIII. Resta inteso che quanto si è stipulato negli articoli precedenti non comprende i casi nei quali Cuba accordi speciali riduzioni di dazi doganali ai prodotti di altri Stati americani.

Tali concessioni non potranno per conseguenza essere reclamate dall'Italia a titolo di nazione più favorita se non quando vengano estese ad altro Stato che non sia americano.

Art. XXIX. Il presente trattato sarà ratificato e le ratifiche scambieranno in Avana appena siansi compiute le formalità prescritte dalle leggi costituzionali degli Stati contraenti.

Avrà effetto dal giorno in cui si eseguisca detto scambio, si promulgherà entro i due mesi seguenti quella data, e durerà dieci anni contati dal giorno dello scambio delle ratifiche.

Nel caso che nessuna delle Parti contraenti annunzi, dodici mesi avanti che spiri detto periodo di dieci anni, la sua intenzione che cessi di aver forza il presente trattato, continuerà il medesimo in vigore per un altro anno da computarsi dal giorno in cui una delle Parti contraenti dia all'altra questa notizia.

In fede di che, i rispettivi Plenipotenziari hanno firmato il presente trattato, apponendovi i loro sigilli.

Fatto in doppio originale, nella città di Avana, il giorno ventinove di dicembre del mille novecentotrè.

(L. S.) *Carlos de Zaldo.*
(L. S). *O. Savina.*

83.

SUISSE, FRANCE.

Convention pour réglementer la pêche dans les eaux frontières; signée à Paris, le 9 mars 1904.*)

Eidgenössische Gesetzsammlung. No. 2. 1905.

Le Conseil fédéral
de la
Confédération suisse
et
le Président
de la République Française,

reconnaissant l'utilité de réglementer à nouveau, d'un commun accord, la pêche dans le lac Léman, le Rhône, l'Arve et leur affluents, ainsi que dans les autres cours d'eau empruntant le territoire des deux Etats, et, notamment dans la partie du cours du Doubs formant frontière,

ont résolu de conclure une convention spéciale et ont nommé, à cet effet, pour leurs Plénipotentiaires, savoir:

Der Bundesrat
der
schweiz. Eidgenossenschaft
und
der Präsident
der Französischen Republik,

mit Rücksicht auf die Zweckmässigkeit einer gemeinsamen Neuregulierung des Fischfanges im Genfersee, in der Rhone, der Arve und ihren Zuflüssen sowie in den andern die Gebiete beider Staaten berührenden Flussläufen und namentlich in derjenigen Strecke des Doubs, welche die Grenze bildet,

haben beschlossen, ein Spezialübereinkommen hierüber abzuschliessen, und haben zu diesem Zwecke als ihre Bevollmächtigten ernannt:

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*) L'échange des ratifications a eu lieu à Paris, le 1er février 1905.

Le Conseil fédéral,
de la Confédération suisse:

M. Charles Edouard Lardy, Docteur en droit, envoyé extraordinaire et ministre plénipotentiaire de la confédération suisse à Paris,

et

Le Président
de la République Française:

M. Th. Delcassé, député, ministre des affaires étrangères,

lesquels, après s'être communiqué leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus des articles suivants:

Titre Ier.

Dispositions concernant le lac Léman.

Art. 1er. Nul ne peut pêcher autrement qu'à la ligne tombante ou flottante, tenue à la main, s'il n'est porteur d'un permis de pêche délivré par l'autorité compétente.

Ne peuvent obtenir de permis de pêche ceux qui, ayant été punis pour contravention de pêche, n'ont pas satisfait aux pénalités encourues.

Art. 2. Est interdit l'usage de tout filet, quel qu'en soit le genre ou la dénomination, dont les mailles, après leur séjour dans l'eau, n'auraient pas au moins 3 centimètres dans toutes les dimensions mesurées de nœud à nœud.

Cette limite de dimension, qui s'étend aussi à l'espacement des verges de tous autres engins employés à la pêche, ne s'applique pas à la goujonnière non contremaillée, seul engin autorisé pour la pêche du poisson

Der Bundesrat
der schweiz. Eidgenossenschaft:

Herrn Karl Eduard Lardy, Doktor der Rechte, ausserordentlichen Gesandten und bevollmächtigten Minister der schweizerischen Eidgenossenschaft in Paris,

und

Der Präsident
der Französischen Republik:

Herrn Th. Delcassé, Deputierten, Minister der auswärtigen Angelegenheiten,

welche, nach gegenseitiger Mitteilung ihrer in guter und gehöriger Form befundenen Vollmachten, folgende Artikel vereinbart haben:

Titel I.

Bestimmungen betreffend den Genfersee.

Art. 1. Niemand darf anders fischen, als mit ruhender oder schwebender Angelschnur aus freier Hand, wenn er nicht im Besitze einer von der kompetenten Behörde ausgestellten Fischereierlaubnis ist.

Wer wegen Fischereivergehen bestraft worden ist, kann keine Fischereibewilligung erlangen, bevor er die ausgesprochene Strafe verbüsst hat.

Art. 2. Es darf kein Netz irgend welcher Art oder Bezeichnung gebraucht werden, dessen Maschen im nassen Zustande nicht mindestens 3 cm Weite nach allen Dimensionen, gemessen von Knoten zu Knoten, haben.

Diese Mindestweite, welche sich auch auf den Abstand der Ruten (Stäbe) aller andern zum Fischfang verwendeten Geräte erstreckt, findet jedoch keine Anwendung auf die Goujonnière ohne Doppelwand, das

devant servir d'amorce. La longueur de la goujonnière n'excédera pas 50 mètres et sa hauteur 2 mètres.

Toutefois, le ménier à mailes de 26 à 28 millimètres sans contremailles pourra être employé pour la pêche de la lotte dans les grands fonds, pendant les mois de décembre, janvier et jusqu'au 14 février inclusivement, et du 6 mars à la fin de mars. Mais il est entendu que tout pêcheur qui aura été reconnu s'être servi de ce filet à petites mailles pour une pêche autre que celle de la lotte, aura son permis retiré immédiatement par voie administrative pendant deux ans, sans préjudice des poursuites judiciaires qui pourront être dirigées contre lui. Ce retrait de permis ne pourra du reste jamais donner lieu à une demande d'indemnité ni à un recours contentieux quelconque.

Par exception également l'engin dénommé „nasse" pourra être monté à l'espacement de mailles de 25 millimètres.

Les filets appelés „grands pics", à mailles de 5 centimètres au moins, pourront être utilisés dans les parties profondes du lac, au delà du Mont, à la condition que la hauteur de ces engins n'excède pas 15 mètres, la longueur 120 mètres et que la distance entre les flotteurs et le sommet du pic soit au minimum de 4 mètres.

Les grands pics ne pourront être accouplés ni en longeur ni en hauteur et les dimensions indiques par le paragraphe précédent (n° 5) ne pourront être dépassées sous aucan prétexte. Si deux ou plusieurs grand pics étaient trouvés reliés les uns aux autres, ils seraient saisis et les détenteurs de ces

einzige zum Fang der Köderfische erlaubte Gerät. Die Länge der Goujonnière darf nicht mehr als 50 m und deren Höhe nicht über 2 m betragen.

Jedoch darf das Stellnetz mit Maschen von 26—28 mm Weite ohne Doppelwand für den Fang der Trüsche in grossen Tiefen während der Monate Dezember, Januar und bis und mit 14. Februar sowie in der Zeit vom 6. März bis Ende März verwendet werden. Jedem Fischer, der überwiesen wird, sich dieses Netzes von geringerer Maschenweite zum Fang anderer Fische als der Trüsche bedient zu haben, ist die Fischereibewilligung unverzüglich für die Dauer von zwei Jahren auf dem Administrativweg zu entziehen, unbeschadet der gerichtlichen Verfolgung, die gegen ihn eingeleitet werden kann. Dieser Entzug kann übrigens nie Grund zu einer Entschädigungsforderung, noch zu irgend welchem Rekurs bilden.

Ebenfalls ausnahmsweise dürfen Reusen eine Maschenweite von 25 mm haben.

Die „Grands pics" benannten Netze, mit Maschen von mindestens 5 cm Weite, dürfen an den tiefen Stellen des Sees, ausserhalb der Halden, verwendet werden, sofern deren Höhe nicht 15 m, die Länge nicht 120 m überschreitet und die Entfernung zwischen den Schwimmern und der Spitze des pic mindestens 4 m beträgt.

Die Grands pics dürfen weder in die Länge noch in die Höhe zusammengekoppelt werden, und es dürfen die in vorstehendem Alinea angegebenen Dimensionen unter keinerlei Vorwand überschritten werden. Werden zwei oder mehrere Grands pics zusammengebunden gefunden, so sind solche zu

filets seraient poursuivis pour délit de pêche avec engins prohibés.

konfiszieren und die Fischer, welche sie ausgesetzt haben, wegen Fischereivergehen mit verbotenen Fanggeräten zu verzeigen.

Art. 3. Sont en outre interdits:
a) les lacets;
b) les harpons, les tridents et autres engins analogues, les plombées et les brillants, à l'exception des cuillers:
c) les armes à feu;
d) les branches et racines (bouquets) pour attirer le poisson.

Art. 3. Im weitern sind verboten:
a) die Schlingen;
b) die Geren, die Gabeln und ähnliche Geräte, die Bleileinen und Brillants, mit Ausnahme der Löffel;
c) die Schiesswaffen;
d) die Zweige, Reiser und Wurzelbündel zum Anlocken der Fische.

Art. 4. Il est interdit de faire usage d'appareils ayant pour objet de rassembler le poisson dans les noues, mares ou fossés dont il ne pourrait plus sortir, ainsi que de le contraindre à passer par une issue garnie de pièges.

Art. 4. Es ist verboten, von Vorrichtungen Gebrauch zu machen, durch welche die Fische in Rinnen, Pfützen, Untiefen oder Gräben zusammengetrieben werden, aus denen sie nicht mehr heraus können, sowie auch die Fische zu zwingen, einen mit Fallen besetzten Ausgang zu benutzen.

Art. 5. Il est interdit de faire usage de noix vomique, de coque du Levant, de substances, explosibles, de chaux, et de toute autre matière pouvant engourdir le poisson ou le faire périr.

Des pénalités sévères seront fixées par chacun des deux pays.

Art. 5. Verboten ist der Gebrauch von Brechnuss, Kokkelskörnern, Sprengstoffen, Kalk und allen andern Materialien, durch welche Fische betäubt oder zu Grunde gerichtet werden können.

Jeder der beiden Staaten stellt hierfür strenge Strafen auf.

Art. 6. Il est interdit aux fabriques, usines ou établissements quelconques placés dans le voisinage du lac, d'abandonner aux eaux les résidus ou matières nuisibles au poisson.

Ces établissement sont tenus d'organiser, à leurs frais, l'écoulement de ces matières dans le sol.

Art. 6. Fabriken und anderweitigen Anlagen in der Nähe des Sees ist es untersagt, Abgänge oder sonstige Stoffe, die den Fischen schädlich sind, ins Wasser abfliessen zu lassen.

Solche Anstalten sind gehalten, auf ihre Kosten dafür zu sorgen, dass diese Stoffe in den Boden abfliessen.

Art. 7. Il est défendu de pêcher au filet aucun menu poisson.

Est considéré comme menu poisson celui dont la longueur n'atteint pas les dimensions suivantes: pour la truite, 25 centimètres, pour l'omble-chevalier, 20 centimètres, pour le

Art. 7. Es ist verboten, irgend welche untermässigen Fische mit Netzen zu fangen.

Zu den nntermässigen Fischen werden diejenigen gezählt, welche nicht folgende Längen erreichen: Forellen 25 cm, Ritter 20 cm, Gressling 10 cm, für alle andern Arten 15 cm.

goujon, 10 centimètres, pour toute autre espèce, 15 centimètres.

La longueur du poisson est mesurée depuis la pointe de la tête à l'extrémité de la queue.

Tout poisson pêché au filet, qui n'a pas la dimension prescrite, doit être immédiatement rejeté à l'eau, à l'exception du poisson devant servir d'amorce, lequel ne doit pas être débarqué à terre.

Art. 8. a) La pêche de toute espèce de poisson est interdite du 15 février au 5 mars inclusivement.

b) La pêche de la truite est interdite du 1er octobre au 31 décembre inclusivement et la pêche de l'omble-chevalier du 1er au 31 décembre inclusivement.

Du 1er octobre à fin décembre, les filets dormants, étoles, tramails et tous autres engins autorisés, qui demeurent fixés dans l'eau, ne doivent pas être placés à moins de 3 mètres de profondeur d'eau mesurés du sommet du filet à la surface du lac.

Durant la même période, il est interdit de faire usage de filets dormants, tels que tramails, étoles, pics, etc., ayant une dimension en hauteur supérieure à 2 mètres.

c) La pêche de la perche est interdite du 1er mai au 31 mai inclusivement.

Pendant cette même période du 1er au 31 mai, les seuls engins autorisés pour la pêche des espèces autres que la perche sont:

la ligne tombante ou flottante tenue à la main;

la ligne traînante;

le fil dormant;

la goujonnière, mais seulement pour la pêche des amorces, en se confor-

Die Länge des Fisches wird von der Kopfspitze bis zum Schwanzende gemessen.

Jeder mit einem Netz gefangene Fisch, der die vorgeschriebene Grösse nicht hat, ist sofort wieder ins Wasser zurückzusetzen, mit Ausnahme der Köderfische, welche jedoch nicht ans Land gebracht werden dürfen.

Art. 8. a) Der Fang jeglicher Fischart ist vom 15. Februar bis und mit 5. März verboten.

b) Der Fang der Forelle ist vom 1. Oktober bis und mit 31. Dezember und derjenige des Ritters vom 1. bis und mit 31. Dezember verboten.

In der Zeit vom 1. Oktober bis Ende Dezember dürfen die Stellnetze (étoles, tramails) und alle andern erlaubten Fanggeräte, die im Wasser feststehen, nicht weniger als 3 m tief, vom obern Rand des Netzes bis zur Seeoberfläche gemessen, gesetzt werden.

Während der gleichen Zeit ist es untersagt, Stellnetze wie tramails, étoles, pics etc. zu verwenden, die eine grössere Höhe als 2 m haben.

c) Der Fang des Barsches ist während der Zeit vom 1. bis und mit 31. Mai verboten.

Während dieser Zeit, vom 1. bis 31. Mai, sind die einzigen, zum Fang anderer Fischarten als des Barschen erlaubten Fanggeräte folgende:

die ruhende oder schwebende Angelschnur von freier Hand;

die Schleifschnur;

die Setzschnur;

die Goujonnière, indes nur zum Fang von Köderfischen, unter Beob-

mant aux prescriptions des articles 2 et 7 de la présente convention.

Toutefois, dans les grandes profondeurs du lac, au delà du mont, à 800 mètres au moins de la rive, il pourra être fait usage des filets non accouplés visés à l'article 2, alinéas 5 et 6 ci-dessus, pourvu que lesdits filets soient employés comme filets flottants, tendus avant le coucher du soleil et relevés après le lever du jour.

d) L'emploi de toute espèce de filet et de la nasse est interdit du 1er septembre au 31 décembre inclusivement, dans un rayon de 300 mètres autour de l'embouchure des principaux affluents du lac, savoir: en France, la Dranse et l'Hermance; en Suisse, le Rhône, le canal Stockalper, le Grand canal, la Chamberonne, la Venoge, l'Aubonne, la Dulive, la Promenthouse et la Versoie, ainsi qu'à l'entrée du port de Genève, à l'extrémité nord des jetées, suivant une ligne tirée du phare des Paquis à celui des Eaux-Vives.

e) Les filets, fils dormants et autres engins placés dans le lac, devront toujours être munis de flotteurs en bois d'au moins 0 m. 30 de longueur, marqués au fer rouge des nom et prénoms de leur propriétaire. Les agents chargés de la surveillance auront toujours le droit, après avoir avisé le propriétaire, de s'assurer, en ramenant le cordeau, que les engins sont conformes au règlement. Les engins dont l'empoi est interdit, ainsi que ceux qui ne seraient pas marqués au nom d'un permissionnaire, pourront être saisis.

achtung der Vorschriften der Art. 2 und 7 gegenwärtiger Übereinkunft.

Immerhin dürfen in den grossen Tiefen des Sees, ausserhalb der Halden, wenigstens 800 m vom Ufer entfernt, nicht zusammengekoppelte Netze, wie solche in Art. 2, Al. 5 und 6, bezeichnet sind, verwendet werden, unter der Voraussetzung, dass solche als Schwebnetze gebraucht, vor Sonnenuntergang gesetzt und nach Sonnenaufgang gehoben werden.

d) Die Anwendung jeder Art Netz und der Reuse ist in der Zeit vom 1. September bis 31. Dezember innerhalb eines Umkreises von 300 m um die Einmündung der Hauptzuflüsse des Sees verboten und zwar: in Frankreich um diejenigen der Dranse und Hermance; in der Schweiz um diejenigen der Rhone, des Kanals Stockalper, des grossen Kanals, der Chamberonne, der Venoge, Aubonne, Dulive, Promenthouse und Versoie sowie um die Einfahrt in den Hafen von Genf, am nördlichen Ende der Dämme, nach einer vom Leuchtturm des Pâquis zu demjenigen der Eaux-Vives gezogenen Linie.

e) Die Netze, Setzschnüre und andern Fanggeräte, die im See Verwendung finden, müssen stets mit hölzernen Schwimmern von wenigstens 30 cm Länge versehen sein, die mit dem Brenneisen eingebrannt, den Tauf- und Geschlechtsnamen des Besitzers tragen. Die mit der Aufsicht betrauten Beamten haben jederzeit das Recht, nach Anzeige an den Besitzer, durch Einziehen der Schnur sich zu überzeugen, ob die Geräte den gesetzlichen Vorschriften entsprechen. Diejenigen Geräte, deren Verwendung verboten sowie solche, welche nicht mit dem Namen des

Art. 9. La défense de pêcher comporte celle d'exporter le poisson du lac, de le colporter, de l'exposer en vente, de l'acheter, de l'expédier ou de le servir dans les auberges, restaurants, hôtels, etc.

Toutefois, dans l'intérêt de la pisciculture et sous réserve d'un contrôle suffisant, l'autorité compétente de chaque Etat pourra donner, en temps prohibé, des autorisations spéciales pour la pêche et la vente du poisson, après que les éléments de reproduction auront été utilisés.

Art. 10. Les deux hautes parties contractantes s'engagent respectivement à poursuivre ceux de leurs ressortissants qui auraient commis, sur le territoire de l'autre Etat, l'une des infractions visées dans la présente convention, comme si l'infraction avait été commise sur leur propre territoire, et en appliquant les peines prévues par la législation du pays du délinquant pour la répression desdites infractions.

Toutefois, aucune poursuite n'aura lieu si le délinquant prouve qu'il a été définitivement jugé par le pays où l'infraction a été commise, et, en cas de condamnation, qu'il a exécuté ou prescrit sa peine, ou obtenu sa grâce.

La transmission des procès-verbaux se fera par l'intermédiaire des commissaires délégués, désignés par les deux gouvernements en vertu de la présente convention. Ces commissaires saisiront, chacun dans leur

Fischereiberechtigten versehen sind, können beschlagnahmt werden.

Art. 9. Das Verbot des Fischfanges schliesst dasjenige in sich, Fische aus dem See auszuführen, zu kolportieren, feilzubieten, zu kaufen, zu versenden oder in Wirtshäusern, Restaurants, Gasthöfen etc. zu servieren.

Zum Zwecke der künstlichen Fischzucht und unter genügenden Kontrollmassregeln dürfen jedoch während der Schonzeit von der zuständigen Behörde jedes Staates Spezialerlaubnisse für den Fischfang erteilt und der Verkauf der Fische gestattet werden, nachdem die Fortpflanzungselemente gewonnen worden sind.

Art. 10. Die zwei hohen vertragschliessenden Staaten verpflichten sich gegenseitig, diejenigen ihrer Angehörigen, welche auf dem Gebiet des andern Staates ein in der vorliegenden Übereinkunft vorgesehenes Vergehen begangen haben sollten, unter Anwenduug der in der Gesetzgebung des eigenen Landes vorgesehenen Strafen, in gleicher Weise gerichtlich zu verfolgen, wie wenn sie sich des Vergehens im eigenen Lande schuldig gemacht hätten.

Es hat jedoch keine Strafverfolgung einzutreten, wenn der Delinquent den Nachweis leistet, dass er in demjenigen Lande, in dem das Vergehen stattgefunden, endgültig abgeurteilt, und im Falle der Verurteilung, dass die Strafe vollzogen oder verjährt, oder dass er begnadigt worden sei.

Die Übermittlung der Verbalprozesse erfolgt durch die von den zwei Regierungen gemäss vorliegender Übereinkunft bezeichneten Kommissäre. Letztere machen, jeder in seinem Lande, die Vergehen bei den

pays, les autorités compétentes et ils feront connaître à leur collègue le résultat des poursuites.

L'Etat où la poursuite sera exercée percevra seul l'amende et les frais, sauf à remettre à l'agent verbalisateur la part d'amende à laquelle il a droit.

Les procès-verbaux régulièrement dressés par les gardes assermentés feront foi, jusqu'à preuve du contraire, devant les tribunaux de l'autre pays.

Les engins ou poissons saisis resteront dans le pays de l'agent verbalisateur.

Les gardes-pêche de chaque pays pourront suivre les délinquants et saisir les engins et poissons prohibés, dans un rayon de 5 kilomètres au delà de la frontière de leurs Etats respectifs.

Ils ne pourront toutefois s'introduire dans les maisons, bâtiments, cours adjacentes et enclos, qu'assistés d'un fonctionnaire de la police locale ayant lui-même ce pouvoir.

Les commissaires des deux gouvernements sont autorisés à dénoncer directement aux gardes-pêche du pays voisin les contraventions qu'il constateraient dans les eaux ou sur le territoire de ce pays.

Les fonctionnaires de la police locale seront tenus d'assister le garde étranger dans ses recherches, sans en référer à une autorité supérieure.

Les deux gouvernements se feront connaître réciproquement les noms des gardes-pêche.

kompetenten Behörden anhängig und teilen ihrem Kollegen das Ergebnis der Strafverfolgung mit.

Derjenige Staat, in welchem die Strafverfolgung durchgeführt wird, bezieht allein die Busse und die Kosten, unter Vorbehalt des Bussanteils, auf welchen der verzeigende Aufseher Anspruch hat.

Die von den beeidigten Aufsehern vorschriftsgemäss gefertigten Verbalprozesse sind bis zur Erbringung des Gegenbeweises vor den Gerichten des andern Landes beweiskräftig.

Die beschlagnahmten Geräte oder Fische verbleiben im Lande des verzeigenden Beamten.

Die Fischereiaufseher jedes Landes sind befugt, die Delinquenten innerhalb eines Rayons von 5 km über die Grenze des eigenen Landes hinaus zu verfolgen und verbotene Fanggeräte und Fische zu konfiszieren.

Sie dürfen jedoch nicht in Häuser, Gebäude, Höfe und Einfriedigungen eindringen, ohne Begleitung eines Beamten der Lokalpolizei, dem selbst diese Befugnis zusteht.

Die Kommissäre der zwei Regierungen sind ermächtigt, Fischereivergehen, die sie in den Gewässern oder auf dem Gebiet des benachbarten Staates konstatieren, direkt den Fischereiaufsehern dieses Staates zu verzeigen.

Die Beamten der Lokalpolizei sind verpflichtet, die Aufseher des fremden Staates in ihren Nachforschungen zu unterstützen, ohne hierzu eine besondere Ermächtigung einer vorgesetzten Behörde einholen zu müssen.

Die beiden Regierungen bringen sich gegenseitig die Namen der Fischereiaufseher zur Kenntnis.

Titre II.

Dispositions concernant les affluents du Lac Léman, le Rhône dès sa source en Valais à la frontière française, en aval de Chancy, l'Arve et leur affluents, ainsi que les autres cours d'eau empruntant le territoire des deux Etats, à l'exception de la partie du Rhône formant frontière et du Doubs.

Art. 11. Les deux Etats contractants s'engagent à prévenir la destruction du poisson et à en favoriser la reproduction.

Ils s'engagent notamment à prendre les mesures prévues dar leur législations respectives pour empêcher la souillure des eaux, et assurer la libre circulation du poisson dans toute l'étendue des cours d'eau ci-dessus énumérés.

Titre III.

Dispositions concernant les parties du Doubs et du Rhône formant frontière.

§ 1. Doubs.

Art. 12. Nul ne peut pêcher dans les eaux frontières, s'il n'y est autorisé par l'autorité cantonale, en Suisse, et par le propriétaire riverain, en France.

Art. 13. Est interdit l'usage de tout filet, quel qu'en soit le genre ou la dénomination, dont les mailles, après leur séjour dans l'eau, n'auraient pas au moins trois centimètres dans toutes les dimensions, mesurées de nœud à nœud.

Cette limite de dimension s'étend aussi à l'espacement des verges de tous autres engins employés à la pêche.

Titel II.

Bestimmungen betreffend die Zuflüsse des Genfersees, die Rhone von ihrer Quelle im Wallis an bis zu der französischen Grenze unterhalb Chancy, die Arve und ihre Zuflüsse sowie die andern, die Gebiete beider Staaten berührenden Gewässer, mit Ausnahme derjenigen Strecke der Rhone, welche die Grenze bildet, und des Doubs.

Art. 11. Die beiden Vertragsstaaten verpflichten sich, die Vernichtung der Fische zu verhüten und deren Fortpflanzung zu begünstigen.

Namentlich verpflichten sie sich, die durch ihre bezüglichen Gesetzgebungen vorgesehenen Massnahmen zur Verhinderung der Verunreinigung der Gewässer zu treffen und die freie Zirkulation der Fische im ganzen Umfange der obgenannten Gewässer zu sichern.

Titel III.

Bestimmungen betreffend die Teile des Doubs und der Rhone, welche die Grenze bilden.

§ 1. Doubs.

Art. 12. Niemand darf in den Grenzgewässern fischen, wenn er hierzu nicht ermächtigt ist; in der Schweiz durch die Kantonsbehörde, in Frankreich durch den Uferbesitzer.

Art. 13. Es darf kein Netz irgend welcher Art oder Bezeichnung gebraucht werden, dessen Maschen im nassen Zustande nicht mindestens 3 cm Weite nach allen Dimensionen, gemessen von Knoten zu Knoten, haben.

Diese Mindestweite erstreckt sich auch auf den Abstand der Ruten (Stäbe) aller andern zum Fischfang verwendeten Geräte.

Art. 14. Sont en outre interdits:

a) les lacets;
b) les harpons, les tridents, les plombées et les brillants, à l'exception des cuillers;
c) les armes à feu;
d) les branches et racines (bouquets) pour attirer le poisson;
e) la trouble.

Art. 15. Il est interdit de faire usage d'appareils ayant pour objet de rassembler le poisson dans les noues, mares ou fossés dont il ne pourrait plus sortir, ainsi que de le contraindre à passer par une issue garnie de pièges.

Art. 16. Il est interdit de faire usage de noix vomique, de coque du Levant, de substances explosibles, de chaux ou de toute autre matière pouvant engourdir le poisson ou le faire périr.

Art. 17. Il est interdit aux fabriques, usines ou établissements quelconques, placés dans le voisinage du Doubs, d'abendonner aux eaux les résidus ou matières nuisibles au poisson.

Ces établissements sont tenus d'organiser, à leurs frais, l'écoulement de ces matières dans le sol.

Art. 18. Les filets fixes ou mobiles, ainsi que tous autres appareils de pêche ne peuvent excéder en longueur ni en largeur la moitié de la largeur mouillée de la rivière.

Les filets fixes et les appareils permanents de pêche, employés simultanément sur la même rive ou sur les deux rives opposées, doivent être à une distance au moins double du

Art. 14. Im weitern sind verboten:

a) die Schlingen;
b) die Geren, die Gabeln, die Bleileinen und Brillants, mit Ausnahme der Löffel;
c) die Schiesswaffen;
d) die Zweige, Reiser und Wurzelbündel zum Anlocken der Fische;
e) das Schöpfnetz.

Art. 15. Es ist verboten, von Vorrichtungen Gebrauch zu machen, durch welche die Fische in Rinnen, Pfützen, Untiefen oder Gräben zusammengetrieben werden, aus denen sie nicht mehr heraus können, sowie auch, die Fische zu zwingen, einen mit Fallen besetzten Ausgang zu benutzen.

Art. 16. Verboten ist der Gebrauch von Brechnuss, Kokkelskörnern, Sprengstoffen, Kalk und allen andern Materialien, durch welche Fische betäubt oder zu Grunde gerichtet werden können.

Art. 17. Fabriken und anderweitigen Anlagen in der Nähe des Doubs ist es untersagt, Abgänge oder sonstige Stoffe, die den Fischen schädlich sind, ins Wasser abfliessen zu lassen.

Solche Anstalten sind gehalten, auf ihre Kosten dafür zu sorgen, dass diese Stoffe in den Boden abfliessen.

Art. 18. Die feststehenden oder beweglichen Netze sowie alle andern Fischereivorrichtungen dürfen weder in Länge noch Breite die Hälfte der benetzten Flussbreite überschreiten.

Die feststehenden Netze und die ständigen Fischereivorrichtungen, welche gleichzeitig am nämlichen Ufer oder auf beiden gegenüberliegenden Ufern verwendet werden, müssen einen

développement du plus long de ces appareils.

Art. 19. Sont prohibés tous les filets traînants, à l'exception du petit épervier jeté à la main et manœuvré par un seul homme.

Sont réputés traînants tous filets coulés à fond au moyen de poids, et promenés sous l'action d'une force quelconque.

Art. 20. Toute pêche, sauf celle à la ligne, est interdite à une distance moindre de 30 mètres en amont et en aval des écluses, barrages, chutes naturelles, pertuis, vannages, coursiers d'usines et échelles à poisson.

Art. 21. Il est interdit de pêcher dans les parties de la rivière ou de ses canaux de dérivation dont le niveau serait accidentellement abaissé, soit pour y opérer des travaux quelconques, soit par suite du chômage des usines. L'interdiction de pêcher s'applique également pendant les sécheresses exceptionnelles qui seront assez fortes ou prolongées pour qu'il se produise une interruption dans l'écoulement des eaux, sur un ou plusieurs points de la rivière ou de ses canaux de dérivation.

Art. 22. Toute pêche est interdite depuis le coucher jusqu'au lever du soleil.

Art. 23. Il est défendu de pêcher au filet aucun menu poisson.

Est considéré comme menu poisson celui dont la longueur n'atteint pas les dimensions suivantes: pour la truite et l'omble-chevalier, 20 centimètres pour toute autre espèce, 15 centimètres.

Abstand einhalten, welcher mindestens doppelt so gross ist, als die grösste Ausdehnung der längsten Vorrichtung.

Art. 19. Verboten sind alle Schleppnetze, mit Ausnahme des kleinen Wurfgarns, das von einem Einzelnen mit der Hand geworfen und gehandhabt wird.

Als Schleppnetze gelten alle Netze, welche mit Gewichten versenkt und durch irgend welche Kräfte hin und her bewegt werden.

Art. 20. Bis zu einer Entfernung von 30 m oberhalb und unterhalb von Schleusen, Wehren, natürlichen Wasserfällen, Durchlässen, Abzugsrinnen, Wasserwerkrinnen und Fischstegen ist jede Art von Fischfang, ausgenommen mit der Angelschnur, untersagt.

Art. 21. Es ist verboten, in denjenigen Teilen des Flusses oder seiner Ableitungskanäle zu fischen, deren Niveau zufällig, sei es durch auszuführende Arbeiten, sei es infolge Stillstandes der Wasserwerke, erniedrigt werden sollte. Das Verbot des Fischfanges findet ebenfalls Anwendung, wenn eine ausserordentliche oder andauernde Trockenheit eine Unterbrechung des Abflusses des Wassers an einem oder mehreren Punkten des Flusses oder seiner Ableitungskanäle herbeiführt.

Art. 22. Von Sonnenuntergang bis Sonnenaufgang ist jeglicher Fischfang verboten.

Art. 23. Es ist verboten, irgend welche untermässigen Fische mit Netzen zu fangen.

Zu den untermässigen Fischen werden diejenigen gezählt, welche nicht folgende Längen haben: Forellen und Ritter 20 cm, alle andern Fischarten 15 cm.

La longueur du poisson est mesurée de la pointe de la tête à l'extrémité de la queue.

L'écrevisse ne peut être pêchée que si sa longueur, mesurée de l'œil à l'extrémité de la queue déployée, atteint 8 centimètres.

La pêche de l'écrevisse est interdite du 1er octobre au 30 juin.

Tout poisson pêché au filet ou écrevisse qui n'a pas les dimensions prescrites doit être immédiatement rejeté à l'eau.

Art. 24. Est interdite, du 20 octobre au 20 janvier inclusivement, la pêche de toute espèce de poisson et, du 15 avril au 31 mai, celle de tous les poissons autres que la truite.

Art. 25. La défense de pêcher comporte celle d'exporter le poisson, de le colporter, de l'exposer en vente, de l'acheter, de l'expédier, de le servir dans les auberges, restaurants, hôtels, etc.

Toutefois, dans l'intérêt de la pisciculture, et sous réserve d'un contrôle suffisant, l'autorité compétente de chaque Etat pourra donner, en temps prohibé, des autorisations spéciales pour la pêche et la vente du poisson, après que les éléments de reproduction auront été utilisés.

Art. 26. La contraventions aux dispositions qui précèdent seront poursuivies et réprimées par les autorités compétentes, conformément à la législation de l'Etat dans lequel elles auront été commises.

Si, pour la même contravention, deux ou trois territoires ont été empruntés, ou s'il y a doute, la contravention est réprimée par l'autorité compétente de l'Etat à laquelle elle a été dénoncée.

Die Länge des Fisches wird von der Kopfspitze bis zum Schwanzende gemessen.

Der Krebs darf nur gefangen werden, wenn seine Länge, vom Auge bis zum Ende des ausgestreckten Schwanzes gemessen, 8 cm erreicht.

Der Fang der Krebse ist vom 1. Oktober bis 30. Juni verboten.

Jeder mit einem Netz gefangene Fisch oder Krebs, der die vorgeschriebene Grösse nicht hat, ist sofort wieder ins Wasser zurück zu versetzen.

Art 24. Vom 20. Oktober bis und mit 20. Januar ist der Fang jeglicher Fischart und vom 15. April bis 31. Mai derjenige aller Fische, ausgenommen der Forelle, verboten.

Art. 25. Das Verbot des Fischfanges schliesst dasjenige in sich, die Fische auszuführen, zu kolportieren, feilzubieten, zu kaufen und versenden oder in Wirtshäusern, Restaurants oder Gasthöfen zu servieren.

Zum Zwecke der künstlichen Fischzucht und unter genügenden Kontrollmassregeln dürfen jedoch während der Schonzeit von der zuständigen Behörde jedes Staates Spezialerlaubnisse für den Fischfang erteilt und der Verkauf der Fische, nachdem die Fortpflanzungselemente verwendet worden sind, gestattet werden.

Art. 26. Die Übertretungen vorstehender Vorschriften werden durch die kompetenten Behörden verfolgt und bestraft gemäss der Gesetzgebung desjenigen Landes, in welchem sie begangen worden.

Wenn für das gleiche Vergehen zwei oder drei verschiedene Territorien in Betracht fallen, oder Zweifel hierüber bestehen, so wird das Vergehen durch die zustehende Behörde desjenigen Staates bestraft, welcher es verzeigt wurde.

§ 2. Rhône.

Art. 27. Nul ne peut pêcher dans la partie du Rhône formant frontière entre les deux Etats, s'il n'y est autorisé par l'autorité compétente du pays sur le territoire duquel il pêche.

Art. 28. La pêche de la truite est interdite du 1er octobre au 31 décembre inclusivement; celle de l'ombre de rivière (thymallus vulgaris Nills) du 1er mars au 30 avril.

La pêche de l'écrevisse est interdite du 1er octobre ou 30 juin.

Art. 29. Les dispositions des articles 10, 13, 14, 15, 16, 17, 18, 19, 20, 21, 23, 25 et 26 ci-dessus sont applicables à la partie du Rhône formant frontière.

Titre IV.

Dipositions générales et transitoires.

Art. 30. Chacun des deux Etats contractants désignera un commissaire spécial pour la surveillance de la pêche dans la partie des eaux soumise à sa juridiction et déterminée aux titres premier et deuxième de la pésente convention.

Les commissaires se réuniront chaque année pour former une commission mixte qui sera chargée d'adresser aux gouvernements des deux Etats intéressés un rapport sur la manière dont les dispositions convenues sont observées, et de leur soumettre les observations et propositions qu'elle jugerait convenable de faire dans l'intérêt de la pêche et de la propagation du poisson.

Art. 31. Deux commissaires spéciaux seront pareillement nommés pour

§ 2. Rhone.

Art. 27. Es darf niemand auf derjenigen Strecke der Rhone fischen, welche die Grenze zwischen den zwei Staaten bildet, wenn er hierzu nicht durch die zuständige Behörde desjenigen Landes ermächtigt ist, auf dessen Territorium er fischt.

Art. 28. Der Fang der Forelle ist vom 1. Oktober bis und mit 31. Dezember verboten, derjenige der Äsche (Thymallus vulgaris Nils.) vom 1. März bis und mit 30. April.

Der Fang des Krebses ist vom 1. Oktober bis 30. Juni untersagt.

Art. 29. Auf diejenige Strecke der Rhone, welche die Grenze bildet, sind die Bestimmungen der vorstehenden Art. 10, 13, 14, 15, 16, 17, 18, 19, 20, 21, 23, 25 und 26 anwendbar.

Titel IV.

Allgemeine und Übergangsbestimmungen.

Art. 30. Jeder der beiden Vertragsstaaten wird für die Überwachung des Fischfanges in den der eigenen Jurisdiktion unterworfenen, in den Titeln I und II gegenwärtiger Übereinkunft näher bestimmten Gewässern einen Spezialkommissär bezeichnen.

Die Kommissäre treten alljährlich zusammen, um eine gemischte Kommission zu bilden, die den Auftrag hat, den Regierungen der beiden beteiligten Staaten Bericht über die Art zu erstatten, wie die vereinbarten Bestimmungen beobachtet werden, und ihnen diejenigen Bemerkungen und Vorschläge zu unterbreiten, welche sie im Interesse des Fischfanges und der Fortpflanzung der Fische für gut findet.

Art. 31. Es sind gleichfalls zwei Spezialkommissäre für die Über-

la surveillance de la pêche dans les eaux déterminées au titre troisième.

Leurs attributions sont les mêmes que celles des commissaires prévus à l'article précédent.

En outre, quatre agents spéciaux (gardes-pêche) dont deux nommés par le Gouvernement Français, un par le Gouvernement de Neuchâtel et un par le Gouvernement de Berne, seront chargés d'assurer la police de la pêche, sous la direction de leurs commissaires respectifs.

Le service sera organisé en vue d'une surveillance simultanée des deux rives.

Art. 32. De nouvelles espèces de poissons ne peuvent être introduites dans les eaux limitrophes qu'avec l'autorisation expresse et conforme des Etats contractants.

Les autorités compétentes des deux Etats s'accorderont sur les prohibitions ou autres mesures à prendre pour la conservation des espèces nouvellement introduites dans lesdites eaux.

Art. 33. Chacun des deux Etats contractants prendra les mesures nécessaires pour l'exécution, sur son territoire, dispositions de la présente convention. Chacun d'eux conserve d'ailleurs la faculté de prescrire des dispositions plus sévères, s'il le juge convenable, dans l'intérêt de la pêche et de la reproduction du poisson.

Art. 34. La présente convention restera en vigueur pendant cinq années, à dater du jour de l'échange des ratifications. A l'expiration de ce terme elle continuera d'être obligatoire pendant une année à partir du jour

wachung des Fischfanges in den im III. Titel bezeichneten Gewässern zu ernennen.

Ihre Obliegenheiten sind die gleichen, wie diejenigen der im vorhergehenden Artikel vorgesehenen Kommissäre.

Im weitern werden vier Spezialbeamte (Fischereiaufseher), wovon die französische Regierung zwei, die Regierung von Neuenburg einen und die Regierung von Bern einen ernennen, mit der Besorgung der Fischereipolizei, unter der Leitung ihrer respektiven Kommissäre, betraut.

Ihr Dienst soll für eine gleichzeitige Überwachung beider Ufer organisiert werden.

Art. 32. Neue Fischarten dürfen nur mit besonderer und von den Vertragsstaaten gemeinsam erteilter Ermächtigung in die Grenzgewässer ausgesetzt werden.

Die zuständigen Behörden der zwei Staaten werden sich über die Verbote and andere zu ergreifende Massnahmen zur Erhaltung der in genannte Gewässer neu eingéführten Fischarten verständigen.

Art. 33. Jeder der Vertragsstaaten wird die erforderlichen Massregeln treffen, damit auf seinem Gebiete die Bestimmungen der gegenwärtigen Übereinkunft vollzogen werden. Übrigens bleibt jedem derselben unbenommen, strengere Bestimmungen vorzuschreiben, wenn er es im Interesse der Fischerei und der Fortpflanzung der Fische für angemessen hält.

Art. 34. Gegenwärtige Übereinkunft verbleibt fünf Jahre in Kraft, vom Tage des Austausches der Ratifikationen an gerechnet. Von da an behält sie weitere Gültigkeit bis zum Ablaufe eines Jahres, vom Tage an

où l'une ou l'autre des hautes parties contractantes l'aura dénoncée.

Art. 35. La présente convention sera ratifiée et les ratifications en seront échangées aussitôt que faire se pourra.

Elle sera mise à exécution, dès que la promulgation en aura été faite d'après les lois particulières à chacun des deux Etats.

Art. 36. Sont et demeurent abrogées:

1° la convention signée à Paris le 28 décembre 1880;

2° la déclaration du 12 mars 1891;

3° la convention additionnelle du 30 juillet 1891.

En foi de quoi, les plénipotentiaires respectifs ont signé la présente convention qu'ils ont revêtue de leurs cachets.

Fait à Paris en double exemplaire le 9 mars 1904.

(L. S.) Signé: *Lardy.*

(L. S.) Signé: *Delcassé.*

gerechnet, wo sie von der einen oder andern der hohen Vertragsparteien gekündet worden ist.

Art. 35. Gegenwärtige Übereinkunft ist zu ratifizieren, und es sind die Ratifikationen baldmöglichst auszutauschen.

Sie wird in Vollzug gesetzt werden, sobald ihre Promulgation gemäss den jedem der beiden Staaten eigenen Gesetze erfolgt sein wird.

Art. 36. Durch vorstehende Übereinkunft werden aufgehoben:

1. die am 28. Dezember 1880 in Paris unterzeichnete Konvention*);
2. die Erklärung vom 12. März 1891**);
3. die Zusatzübereinkunft vom 30. Juli 1891***).

Zu Urkunde dessen haben die beidseitigen Bevollmächtigten die gegenwärtige Übereinkunft unterzeichnet und derselben ihr Siegel beigedrückt.

So geschehen zu Paris, den 9. März 1904.

L. S. (Sig.) *Lardy.*

L. S. (Sig.) *Delcassé.*

*) V. **N. R. G.** 2e S. IX. 111.
) V. **N. R. G. 2e S. XVIII. 238.
***) V. **N. R. G.** 2e S. XXI. 24.

84.

PAYS-BAS, FRANCE.

Convention destinée à favoriser les relations télégraphiques de leurs colonies respectifs; signée à La Haye, le 6 avril 1904.

Staatsblad van het Koninkrijk der Nederlanden. No. 270.

Sa Majesté la Reine des Pays-Bas et Le Président de la République Française, désireux de favoriser le développement des relations télégraphiques de leurs colonies, ont décidé de conclure une convention à cet effet et ont nommé pour Leurs plénipotentiaires respectifs,

Sa Majesté la Reine des Pays-Bas:

Monsieur le Baron R. Melvil de Lynden, Son Ministre des Affaires Etrangères, et

Le Président de la République Française:

Monsieur Baylin de Monbel, Envoyé extraordinaire et Ministre plénipotentiaire de la République Française près Sa Majesté la Reine des Pays-Bas,

lesquels, après s'être communiqué leurs pleins-pouvoirs, trouvés en bonne et due forme, sont convenus de ce qui suit:

Article premier.

1°. Le Gouvernement néerlandais ayant établi et mis en exploitation un câble sous-marin de Batavia à Pontianak avec atterrissement à Billiton, le Gouvernement français établira ou fera établir pour son propre compte un câble sous-marin entre un point de l'Indo-Chine près de Saigon et le point d'atterrissement près de Pontianak du câble précité du Gouvernement néerlandais entre la côte de l'île de Java et la côte occidentale du Bornéo néerlandais. Le câble à établir pourra avoir un atterrissement intermédiaire dans l'île de Poulo Condore. Cependant, le Gouvernement français se réserve le droit de confier l'établissement et l'exploitation du câble ou son exploitation seulement à une compagnie française.

2° Si le câble entre Saigon et Pontianak est établi pour le compte du Gouvernement français, l'établissement se fera entièrement aux frais de ce Gouvernement: celui-ci ne pourra cependant pas être propriétaire de la section de câble située sur le territoire et dans les eaux territoriales du Bornéo néerlandais, ni exercer aucun droit sur cette section, laquelle appartiendra au Gouvernement néerlandais, qui en remboursera le coût au Gouvernement français. En outre, le Gouvernement néerlandais effectuera à ses frais la jonction du point d'atterrissement au bureau de Pontianak.

3° Si le Gouvernement français juge préférable de confier l'établissement du câble et son exploitation à une compagnie française qui serait alors

propriétaire de ce conducteur, le Gouvernement néerlandais s'engage, dès maintenant, à accorder à cette compagnie, pour une durée de quarante années, le droit d'atterissement nécessaire dans les conditions prévues à l'article VII paragraphe 1 ci-après. La compagnie française assurera l'établissement de la communication jusqu'au bureau de Pontianak.

4° Si le Gouvernement français décide de ne confier que l'expoitation du câble à une compagnie française, le Gouvernement néerlandais s'engage, dès maintenant, à accorder à cette compagnie le droit d'exploitation nécessaire dans les conditions prévues à l'article VII paragaphe 2 ci-après.

5° La communication prévue ci-dessus devra être organisée dans un délai maximum de quinze mois à partir de la date de la ratification de la présente convention.

Article II.

1° Les Parties contractantes s'engagent, chacune en ce qui la concerne, à prendre les dispositions nécessaires pour remédier dans le plus bref délai aux interruptions, qui se produiront pendant une période de quarante ans à partir du commencement de l'exploitation, sur les câbles et lignes entre Saigon et Pontianak d'une part et Pontianak et Batavia d'autre part.

2° Si le câble de Saigon à Pontianak est établi dans les conditions prévues à l'article I paragraphe 2, le Gouvernement néerlandais remboursera au Gouvernement français les dépenses que celui-ci aurait faites pour les réparations de la section du câble située dans les eaux territoriales néerlandaises.

3° Le Gouvernement néerlandais assurera à ses frais l'exploitation du câble au bureau de Pontianak, dont les heures de service seront fixées d'un commun accord.

4° L'installation des appareils sur les lignes de Saigon à Pontianak et de Pontianak à Batavia devra être telle qu'elle permette l'échange direct des correspondances entre Saigon et Batavia. En outre, et afin d'assurer la rapidité des transmissions, les communications, seront établies directement entre Saigon et Pontianak d'une part, Pontianak et Batavia d'autre part, en dehors du temps qui sera reconnu nécessaire pour écouler dans des conditions convenables, le trafic des îles de Poulo Condore et de Billiton.

5° Si l'établissement et l'exploitation du câble de Saigon à Pontianak sont confiés à une compagnie française, le Gouvernement français s'engage à remédier ou faire remédier aux interruptions dans le plus bref délai possible, au cas où la compagnie ne prendrait pas les mesures nécessaires à cet effet.

Article III.

1° On appliquera aux correspondances empruntant les lignes précitées les règles de la Convention télégraphique de Saint-Pétersbourg et du règlement télégraphique en vigueur.

2° Les détails d'exploitation seront réglés entre les Administrations télégraphiques des Etats contractants et le cas échéant, dans les concessions

à délivrer à la compagnie visée à l'article I, paragraphes 3 et 4, et au fur et à mesure des modifications à intervenir, par des ententes spéciales.

Article IV.

Au point de vue du régime des taxes et de l'acheminement du trafic, les Gouvernements contractants admettent les conditions suivantes pour les correspondances empruntant les câbles de Saigon à Pontianak et de Pontianak à Batavia:

a) pour les correspondances en provenance ou à destination des Indes néerlandaises, il ne sera perçu au profit du Gouvernement des Indes néerlandaises d'autre taxe qu'une taxe terminale. Cette taxe est fixée à quarante-quatre centimes (frcs. 0.44) par mot;

b) pour celles de ces correspondances ne transitant que par l'île de Java, il ne sera perçu, au profit du Gouvernement des Indes néerlandaises, qu'une taxe de transit de vingt centimes (frcs. 0.20) par mot;

c) pour les correspondances empruntant d'autres lignes du Gouvernement des Indes néerlandaises, il ne sera perçu au profit de ce Gouvernement qu'une taxe de transit de quarante-quatre centimes (frcs. 0.44) par mot, au maximum;

d) les correspondances précitées bénéficieront de toutes les réductions des taxes terminales ou de transit qui seraient accordées à d'autres entreprises dans des conditions analogues;

e) à égalité de tarif, les correspondances ne portant pas d'indication de voie, en provenance ou à destination soit des lieux desservis par le câble de Pontianak à Batavia, savoir: Pontianak, l'île de Billiton et l'île de Java, soit des pays desservis par le réseau français d'Extrême-Orient, savoir: l'Indo-Chine, le Siam, la Chine méridionale (Amoy compris), seront dirigées, de part et d'autre, par la voie de Pontianak-Saigon comme étant la plus directe;

f) les correspondances de presse bénéficieront d'une réduction d'au moins trois cinquièmes sur le tarif appliqué aux correspondances ordinaires.

Article V.

Les télégrammes d'Etat des Gouvernements contractants bénéficieront d'une réduction de 50 pct. sur l'ensemble des taxes perçues entre Saigon et Batavia et vice-versa.

Article VI.

1° Si le Gouvernement français le désire, il pourra, dans le délai de quinze ans, à partir de la date de la ratification de la présente Convention, établir ou faire établir pour son propre compte:

a) des câbles partant de Java (près de Batavia ou d'autres localités choisies d'un commun accord) et se dirigeant vers l'Océan Indien;

b) un câble partant de Java d'une des localités visées ci-dessus et se dirigeant sur Saigon.

Le Gouvernement néerlandais désignera parmi les points de la côte choisis d'un commun accord ceux où les câbles devront atterrir et, en vue de la sauvegarde des droits de Souveraineté du Gouvernement néerlandais,

il sera procédé, en ce qui concerne la propriété et l'entretien des sections de câble situées dans les eaux territoriales néerlandaises, ainsi que pour les lignes terrestres et pour l'exploitation des bureaux, comme il est dit aux articles I paragraphe 2, et II paragraphes 2 et 3.

2° Le Gouvernement français se réserve le droit de confier l'établissement et l'exploitation de ces câbles à une compagnie française qui en serait alors propriétaire. Dans ce cas, le Gouvernement néerlandais concédera à cette compagnie le droit d'atterrissement dans les conditions prévues à l'article VII paragraphe 1 et pour une durée de quarante années.

3° Le Gouvernement français se réserve également le droit de confier seulement l'exploitation des mêmes câbles à une compagnie française. Dans ce cas, le Gouvernement néerlandais concédera à cette compagnie l'autorisation d'exploiter ces câbles aux Indes néerlandaises dans les conditions prévues à l'article VII paragraphe 2.

Article VII.

1° Hormis les détails qui seront réglés dans les concessions à délivrer à une compagnie française, les conditions sous lesquelles les droits d'atterrissement prévus par la présente Convention lui seront accordées, sont les suivantes:

a) la compagnie sera désignée par le Gouvernement français;

b) les droits d'atterrissement et la propriété des câbles de la compagnie ne pourront être transférés sans le consentement exprès et par écrit des Gouvernements néerlandais et français;

c) aux Indes néerlandaises, la compagnie installera son service d'exploitation et le logement du chef de bureau dans les locaux dépendant du bureau du Gouvernement néerlandais où les câbles aboutiront, moyennant un prix de location fixé d'un commun accord et en rapport autant que possible avec ceux usités dans la localité. En outre, la compagnie entretiendra à ses frais la ligne de communication entre le point d'atterrissement et le bureau d'exploitation du câble;

d) les droits d'atterrissement ne porteront aucune atteinte aux droits de Souveraineté des Pays-Bas; par conséquent le Gouvernement néerlandais pourra, dans les limites de son territoire et s'il le juge nécessaire, faire assurer, en tout temps par ses propres employés l'exploitation des lignes de la compagnie.

2° Si le Gouvernement français décide de faire usage de la faculté prévue au paragraphe 3 de l'article VI, la compagnie française, hormis les détails, qui seront réglés dans les concessions à délivrer, sera autorisée à exploiter aux Indes néerlandaises les câbles visés à cet article aux conditions suivantes:

a) la compagnie sera désignée par le Gouvernement français;

b) l'exploitation ne pourra être transférée à une autre compagnie sans le consentement exprès et par écrit du Gouvernement néerlandais;

c) aux Indes néerlandaises, la compagnie installera son service d'exploitation et le logement du chef de bureau dans les locaux dépendant du bureau

du Gouvernement néerlandais où les câbles aboutiront, moyennant un prix de location fixé d'un commun accord et en rapport, autant que possible, avec ceux usités dans la localité. En outre, la compagnie entretiendra à ses frais la ligne de communication entre le point d'atterrissement et le bureau d'exploitation du câble;

d) l'autorisation d'exploitation ne portera aucune atteinte aux droits de Souveraineté des Pays-Bas; par consequent le Gouvernement néerlandais pourra, dans les limites de son territoire et s'il le juge nécessaire, faire assurer, en tout temps, par ses propres employés l'exploitation des lignes.

Article VIII.

De son côté, le Gouvernement néerlandais consent à accorder pour les correspondances empruntant les câbles prévues à l'article VI les mêmes avantages, au point de vue tarifaire, qu'à toutes autres compagnies possédant des câbles atterrissant aux Indes néerlandaises; en conséquence les taxes terminales et de transit des Indes néerlandaises ne seront, en aucun cas, plus élevées que celles appliquées, dans les conditions analogues, aux correspondances empruntant d'autres lignes et ayant même origine et même destination.

Article IX.

Si le Gouvernement français acquiert la propriété du câble prévu à l'article I paragraphe 3 ou des câbles prévus à l'article VI paragraphe 2, il sera procédé, en vue de la sauvegarde des droits de Souveraineté du Gouvernement néerlandais, en ce qui concerne la propriété des sections de câble situées dans les eaux territoriales néerlandaises, comme il est dit à l'article I paragraphe 2 avec la seule exception que le Gouvernement néerlandais ne remboursera au Gouvernement français que la valeur intrinsèque de ces sections au moment de l'acquisition par le Gouvernement néerlandais. En ce qui concerne les lignes terrestres, l'entretien des sections de câble dans les eaux territoriales néerlandaises ainsi que l'exploitation des bureaux, il sera procédé comme il est dit aux articles I paragraphe 2, et II paragraphes 2 et 3.

Article X.

Pour l'application de la présente convention les eaux territoriales seront censées s'étendre à trois milles marins (60 au degré de latitude) de la laisse de basse marée.

Article XI.

En attendant qu'un accord général, à intervenir entre les deux Gouvernements contractants en vertu de l'article 19 de la Convention du 29 juillet 1899 pour le règlement pacifique des conflits internationaux, déclare l'arbitrage obligatoire dans tous les cas où des difficultés viendraient à s'élever entre eux au sujet de l'interprétation ou de l'exécution de la présente Convention, ces Gouvernements conviennent, dès à présent, que ces difficultés éventuelles, si elles ne peuvent pas être résolues par

les voies diplomatiques, seront soumises à la Cour permanente d'arbitrage, conformément aux dispositions de la dite convention du 29 juillet 1899.

Dans chaque cas particulier les Gouvernements contractants, avant de s'adresser à la Cour, signeront un compromis spécial déterminant nettement l'objet du litige, l'étendue des pouvoirs des arbitres et les délais à observer en ce qui concerne la constitution du Tribunal arbitral et la procédure.

Article XII.

La présente Convention sera ratifiée et les ratifications en seront échangées à La Haye aussitôt que faire se pourra.

En foi de quoi, les plénipotentiaires mentionnés ci-dessus ont signé la présente convention et y ont apposé leurs cachets.

Fait, en double exemplaire, à La Haye, le 6 avril 1904.

(L. S.) *Bn. Melvil de Lynden.*
(L. S.) *Monbel.*

85.

ITALIE, FRANCE.

Arrangement destiné à assurer réciproquement des facilités nouvelles aux déposants à la Caisse nationale d'épargne de France et à la Caisse d'épargne postale d'Italie; signé à Rome, le 15 avril 1904.

Gazzetta Ufficiale del Regno d'Italia. 31 octobre 1904.

Le Gouvernement de S. M. le Roi d'Italie et le Gouvernement de la République française, désirant assurer des facilités nouvelles aux déposants à la Caisse nationale d'épargne de France et à la Caisse d'épargne postale d'Italie, sont convenus de ce qui suit:

Art. 1er.

Les fonds versés à titre d'épargne, soit à la Caisse nationale d'épargne de France soit à la Caisse d'épargne postale d'Italie, pourront, sur la demande des intéressés et jusqu'à concurrence d'un maximum de 1,500 francs, être transférés sans frais de l'une des Caisses dans l'autre, et réciproquement.

Les demandes de transferts internationaux seront reçues, en France et en Italie, dans tous les bureaux de poste chargés, dans ces pays. du service de la Caisse d'épargne.

Les fonds transférés seront, notamment en ce qui concerne le taux et le calcul des intérêts, les conditions de remboursement, d'achat et de revente

de rentes ou d,acquisition de carnets de rentes viagères, soumis aux lois, décrets, arrêtés et règlements régissant le service de l'administration dans la Caisse de laquelle ces fonds auront été transférés.

Art. 2.

Les titulaires de livrets de la Caisse nationale d'épargne de France ou de la Caisse d'épargne postale d'Italie pourront obtenir, sans frais, le remboursement, dans l'un de ces pays, de sommes déposées par eux à la Caisse d'epargne de l'autre pays.

Les demandes de remboursements internationaux, rédigées sur des formules spéciales mises à la disposition du public, seront déposées par les intéressés entre les mains du chef de bureau ou du receveur des postes de leur résidence, qui les fera parvenir, en franchise de port, à la Caisse d'épargne détentrice des fonds.

Les remboursement seront effectués en vertu d'ordres de payement qui ne pouront excéder 1,500 francs chacun.

Les ordres de remboursement seront payables seulement dans les établissements de poste ou autres chargés du service de la Caisse d'épargne. Ils seront adressés, directement et en franchise de port, par la Caisse d'épargne qui les aura délivrés, aux bureaux désignés pour le payement.

Art. 3.

Chaque administration se réserve le droit de rejeter les demandes de tranferts ou de remboursements internationaux qui ne rempliraient pas les conditions exigées par ses réglements intérieurs.

Art. 4.

Les sommes transférées d'une Caisse dans l'autre porteront intérêt à charge de l'administration primitivement détentrice des fonds jusqu'à la fin du mois pendant lequel cette demande s'est produite, et à charge de l'administration qui accepte le transfert à partir du premier jour du mois suivant.

Art. 5.

Il sera établi, à la fin de chaque mois, par la Caisse nationale d'épargne de France et la Caisse d'épargne postale d'Italie, un décompte des sommes qu'elles se doivent respectivement du chef des opérations faites pour le service de la Caisse d'épargne et, après vérification contradictoire de ces décomptes, la Caisse reconnue débitrice se libérera, dans le plus bref délai possible, envers l'autre Caisse, au moyen de traites ou chèques sur Rome ou sur Paris.

Art. 6.

La Caisse d'épargne de chacun des pays contractants pourra correspondre directement et en franchise, par la voie postale, avec la Caisse de l'autre pays.

Art. 7.

Les bureaux de poste des deux pays se prêteront réciproquement concours pour le retrait des livrets à régler ou à vérifier.

L'échange des livrets entre la Caisse d'épargne de chaque pays et les bureaux de poste ou agences de l'autre pays aura lieu en franchise.

Art. 8.

La Caisse nationale d'épargne de France et la Caisse d'épargne postale d'Italie arrêteront d'un commun accord, après entente avec les Administration des postes des deux pays, les mesures de détail et d'ordre nécessaires pour l'exécution du présent arrangement, y compris celles relatives au change.

Art. 9.

Chaque Partie contractante se réserve la faculté, dans le cas de force majeure ou de circonstances graves, de suspendre en tout ou en partie les effets de la présente convention.

Avis devra en être donné à l'Administration correspondante par la voie diplomatique.

L'avis fixera la date à partir de laquelle le service international cessera de fonctionner.

Art. 10.

Le présent arrangement aura force et valeur à partir du jour dont les Caisses d'épargne des deux pays conviendront, dès que la promulgation en aura été faite d'après les lois particulières à chacun des deux Etats.

Sauf les cas prévus à l'article 5 de la convention en date de ce même jour, il demeurera obligatoire pendant une durée de cinq années. Les deux Parties contractantes devront se prévenir mutuellement, une année à l'avance, si leur intention est d'y mettre fin à l'expiration de ce terme. A défaut d'un tel avis, il sera prorogé d'année en année, pour un délai d'un an, par tacite réconduction.

Lorsque l'une des deux Parties contractantes aura annoncé à l'autre son intention d'en faire cesser les effets, l'arrangement continuera d'avoir son exécution pleine et entière pendant les douze derniers mois, sans préjudice de la liquidation et du solde des comptes entre les Caisses d'épargne des deux pays après l'expiration dudit terme.

En foi de quoi, les soussignés, à ce dûment autorisés, ont dressé le présent acte auquel ils ont apposé leurs signatures et leurs cachets.

Fait, en double expédition, à Rome, le quinze avril 1904.

(L. S.) *Tittoni.*
(L. S.) *L. Luzzatti.*
(L. S.) *L. Rava.*
(L. S.) *E. Stelluti Scala.*
(L. S.) *Camille Barrére.*
(L. S.) *Arthur Fontaine.*

Protocole.

Au moment de procéder à la signature de la Convention en date de ce jour, les Plénipotentiaires soussignés, se réferant à l'article 5 de cette Convention, ont d'un commun accord déclaré ce qui suit:

La loi française sur le travail des enfants et des femmes, visée par l'article 5 de la Convention, est celle du 2 novembre 1892, modifiée par l'article 1er de la loi du 30 mars 1900. Toutefois, il est entendu que, éventuellement, les modifications à la dite loi déjà votées par le Sénat français à la date du 24 mars 1904, dans la mesure où elles prendraient force légale par le vote des deux Chambres, se substitueraient aux dispositions actuellement en vigueur pour l'appréciation prévue à l'article 5 de la dite Convention.

La loi italienne sur le travail des femmes et des enfants, visée par l'article 5 de la Convention, est celle du 29 juin 1902.

Il sera tenu compte, pour les appréciations prévues au dit article 5: en France, des avis de la Commission Supérieure du Travail dans l'Industrie, établie par la loi du 2 novembre 1892, et du Conseil Supérieur, du Travail; en Italie, de l'avis du Conseil Supérieur du Travail, organisé par la loi du 29 juin 1902.

Fait, en double expédition, à Rome, le 15 avril 1904.

(L. S.) *Tittoni.*
(L. S.) *L. Luzzatti.*
(L. S.) *L. Rava.*
(L. S.) *E. Stelluti Scala.*
(L. S.) *Camille Barrére.*
(L. S.) *Arthur Fontaine.*

86.

RUSSIE.

Règlement sur la Marine marchande; du 6/10 juin 1904.

Archives diplomatiques 1904.

Par avis du conseil de l'Empire, confirmé par Sa Majesté l'Empereur le 6 juin 1904, il a été statué sur la proposition de l'auguste président de la commission spéciale pour l'élaboration d'un projet de Code de lois sur la marine marchande, ce qui suit:

A titre de modification et de supplément aux lois en vigueur, le droit de naviguer sous pavillon national russe sera subordonné aux règles suivantes:

1. Le droit de naviguer sous pavillon national russe appartient exclusivement aux navires russes.

Ne sont considérés comme navires de commerce russes que ceux appartenant:

a) à un seul et unique propriétaire, ou en commun à plusieurs propriétaires (Code de commerce, art. 155), s'ils sont tous sujets russes;

b) à des Sociétés en nom collectif ou en commandite, si tous les sociétaires et en sus dans le second cas — tous les dépositaires sont sujets russes;

c) à une Société par actions, à une Compagnie ou société par titres de participation (Bulletin des lois, tome X, 1er partie du Code civil, art. 2. 139; t. XI, 2e partie, Code de commerce) si toutes les actions ou titres de participation sont nominatifs et appartiennent à des sujets russes, et en outre si le siège de la direction de l'entreprise se trouve dans les limites de l'Empire et si les membres des conseils de direction, les directeurs-gérants et les personnes occupant des fonctions analogues sont des sujets russes.

3. Tout navire perd le droit de naviguer sous pavillon national russe (art. 1.)

a) si, dans le courant de trois ans après la mort du testataire le sujet étranger ayant hérité d'un navire ou d'uue part du droit de propriété au navire, ne les aura pas vendus à un sujet russe ou si les co-propriétaires du navire n'auront pas acheté, soit le navire en entier, soit les parts de ce navire, aux termes indiqués dans l'art. 161 du statut du commerce;

b) si le sujet étranger jouissant, à titre d'héritier de l'un des dépositaires, du droit de participer à la société en commandite possédant le navire ou de l'un des sociétaires participants de la Société en nom collectif ou en commandite, n'aura pas cessé de faire partie de la Société dans un délai de trois ans après la mort du testataire.

4. Tout navire perd le droit de naviguer sous pavillon national russe (art. 1) si son unique propriétaire, ou l'un des co-propriétaires ou sociétaires participants de la Société en nom collectif ou en commandite, possédant le navire, se fait naturaliser à l'étranger, sans observer les règles indiquées dans les §§ a et b de l'art. 3.

5. Les navires de commerce, acquis en commun par leurs propriétaires avant la publication dans le Bulletin des lois du présent règlement, continuent, même dans le cas où ils ne répondraient pas aux stipulations de l'art. 2, à jouir comme par le passé, du droit de naviguer sous pavillon national russe.

6. Les entreprises maritimes, ainsi que les maisons de commerce possédant des navires marchands, et qui ont été fondées avant la publication dans le Bulletin des lois du présent règlement, ainsi que les navires appartenant à des Sociétés en nom collectif ou en commandite existantes, même si elles ne répondent pas aux stipulations de l'art. 2, continuent à jouir du droit de naviguer sous pavillon national russe.

7. Dans le cas où les entreprises énumérées dans l'art. 6, seraient amenées à augmenter leur capital ou à admettre de nouveaux membres dans le but de multiplier l'effectif de leur flotte marchande:

a) Les Sociétés en nom collectif ou en commandite ne pourrout admettre en qualité de sociétaire qu'un sujet russe;

b) les nouveaux dépôts, donnant droit de participation aux sociétés en commandite, ne peuvent être faits que par des sujets russes;

c) dans les sociétés par actions, les actions nouvellement émises devront être nominatives et appartenir à des sujets russes.

8. Les entreprises maritimes ou entreprises commerciales et industrielles possédant des navires de haute mer, qui existaient antérieurement à la publication dans le Bulletin des lois du présent règlement, continuent, même si elles ne répondent pas aux stipulations de l'art. 2, à jouir des avantages et privilèges acquis à la marine marchande, jusqu'à l'expiration du terme pour lequel ces avantages et privilèges ont été accordés.

9. Les règles formulées dans les art. 1—4 seront applicables six mois après la date de leur publication dans le Bulletin des lois.

87.

SUÈDE ET NORVÈGE, CHINE.

Arrangement concernant une modification des droits d'entrée en Chine; signé le $\frac{\text{30 mars 1904.}}{\text{10 février 1905.}}$

Overenskomster med fremmede Stater. No. 2. 1905.

Whereas it was provided by the Final Protocol signed at Peking on the 7th of September 1901 (Article VI), that the existing Tariff on goods imported into China should be increased to an effective five per cent, and whereas it was further provided that all duties levied on imports ad valorem should be converted as far as feasible and with the least possible delay into specific duties, this conversion to be effected in the following manner: — The average value of merchandise at the time of landing during the three years 1897, 1898 and 1899, that is to say, the market-price less the amount of import duty and incidental expenses to be taken as the basis for the valuation of such merchandise:

The Special Commissioners of: Sweden and Norway Mr. Philip Hagberg, Consul General for Sweden and Norway, and of China Their Excellencies Lü Hai-Huan and Shêng Hsüan-Huai have agreed and determined, on the basis aforesaid, upon the Tariff hereto appended together with certain Rules for the application thereof: and do hereby agree that the said Tariff and Rules shall be binding on the Governments and subjects of their respective Countries.

The Tariff and Rules aforesaid shall be binding on and after the date of the signature of the present instrument.

Should it be ascertained hereafter that any articles have been omitted from this Tariff which it is found can be conveniently provided for on a specific basis in terms of the Final Protocol of 1901, it is understood that the necessary additions shall be made at rates to be mutually agreed upon by Representatives of the various Powers, by whom this Tariff has been signed.

It is understood that, in the event of there being any difference of meaning between the English and Chinese Texts of the Tariff and Rules, the sense as expressed in the English Text shall be held to be the correct sense.

The present Agreement has been drawn up in two identical copies and signed by the Special Commissioners of the Countries aforesaid. One copy shall be given to the Special Commissioner of Sweden and Norway and one copy shall be given to the Special Commissioners of China.

Signed: *Filip Hagberg.*
Chinese Signature.

88.

SERBIE, HONGRIE.

Arrangement concernant la création d'une communication téléphonique directe entre les deux pays; signé à Belgrade, le $\frac{\text{28 juillet}}{\text{10 août}}$ 1904.

Publication officielle du Royaume de Serbie. 9 janvier 1905.

Article 1.

Pour établir une communication téléphonique entre la Hongrie et la Serbie, l'Administration des Postes et des Télégraphes de Hongrie se charge de prolonger à ses frais jusqu'à la frontière serbe (la ville de Zimony) la ligne téléphonique entre Budapest et Ujvidék et l'Administration des Postes et des Télégraphes de Serbie pourvoit également à ses frais à la construction et prolongation de cette ligne sur son territoire.

Les parties contractantes s'engagent à construire aux mêmes conditions une ligne téléphonique entre Zimony et Belgrade spécialement affectée à la conversation entre ces deux villes.

La ligne comprenant un circuit est construite en deux fils en bronze de 4 mm de diamètre et de manière que les effets d'induction des courants faibles ou forts soient évités autant que possible.

Les communications téléphoniques peuvent être originaires ou à destination des postes publics et des postes d'abonnés.

Article 2.

La ligne est spécialement affectée à la correspondance téléphonique.

En respectant cette affectation, l'Administration des Postes et des Télégraphes de Hongrie se réserve le droit d'utiliser la partie de la ligne sur le territoire hongrois aux besoins de son service interne.

Sous les mêmes réserves le circuit peut, après accord, être utilisé à l'échange dee correspondances télégraphiques entre Budapest et Belgrade.

Article 3.

L'unité admise tant pour la perception des taxes que pour la durée des cummunications est la conversation de trois minutes.

Article 4.

Sont exemptes de toute taxe et jouissent de la priorité, les conversations officielles, échangées entre les deux Administrations centrales contractantes des Postes, des Télégraphes et des Téléphones. Toutes les autres conversations, mêmes celles qui sont échangées dans l'intérêt de l'Etat, sont taxées.

Les communications d'Etat jouissent de la priorité attribuée aux télégrammes d'Etat par l'art. 5 de la convention internationale de Saint-Pétersbourg du 11/22 juillet 1875.

Article 5.

La taxe d'une conversation ordinaire de 3 minutes monte entre Budapest et Belgrade à deux (2) couronnes (2 frs) et celle d'une conversation entre Zimony et Belgrade à 1 coronne (1 frs).

Article 6.

La taxe est acquittée par celui qui demande la mise en communication.

La taxe est intégralement remboursée:

1. Si le raccordement des correspondants n'a pu avoir lieu à la suite d'un vice technique ou d'un défaut d'exploitation du téléphone.

2. Si le correspondant renonce à la conversation avant la mise en communication avec le poste appelé; et

3. Si le poste appelé ne répond pas à l'appel.

Dans tous les autres cas où la conversation n'aurait pas lieu, un remboursement das taxes versées n'est pas accordé.

Article 7.

Les Administrations intéressées déterminent d'un commun accord les villes admises à la correspondance. Elles sont libres à fixer la taxe additionnelle de ces villes qui prendront part à l'échange téléphonique, établi entre Budapest et Belgrade. Cette taxe additionnelle reste intégralement au profit de l'Administration respective.

Après accord, des relations peuvent s'ouvrir avec des pays voisins, en transit par les rescaux téléphoniques des Administrations contractantes.

Article 8.

Conformément à la proportion des frais de construction, la Hongrie reçoit 80 % des taxes afférentes aux conversations échangées entre Budapest et Belgrade et vice-versa, le reste de 20 % est au profit de la Serbie; concernant les taxes afférentes aux conversations échangées entre Zimony et Belgrade et vice-versa, une répartition égale à raison de 50—50 % est adoptée.

Article 9.

En vertu de l'art. 8 de la convention de St. Petersbourg, chacune des Administration contractantes se réserve de suspendre totalement ou partiellement le service du téléphone, sans être tenue à aucune indemnité.

Article 10.

Les Administrations contractantes ne sont soumises à raison du service de la correspondance à aucune responsabilité.

Article 11.

Les dispositions de la présente convention seront complétées par un règlement de service qui sera arrêté et pourra ensuite être modifié d'un commun accord entre les Administrations intéressées.

Article 12.

Le présent arrangement sera mis à éxécution à la date qui sera fixée par les Administrations contractantes.

Il restera en vigueur pendant un an, après que la dénonciation en aura été faite par l'une ou l'autre des Administrations intéressées.

Fait en double et signé.

Belgrade, le $\frac{\text{28 juillet}}{\text{10 août}}$ 1904.

Pour la Serbie

Le Directeur Général, de Postes et des Télégraphes.
(P. S.) *Miloch R. Jovanovitch.*

Budapest, le 28 septembre 1904.

Pour la Hongrie

Le Directeur Général.
(P. S.) *Pierre de Szalay.*

Réglement de service arrêté en exécution de l'article 11. de l'Arrangement conclu entre la Serbie et la Hongrie concernant la création d'une communication téléphonique directe entre ces deux pays.

I.

Dénomination et destination de la ligne.

1. Le circuit établi entre Budapest et Belgrade et désigné sur le territoire hongrois par le № ..... sur le territoire serbe par le № ..... le circuit spécial entre Zimony et Belgrade est désigné sur le territoire hongrois par le № ..... sur le territoire serbe par le № .....

2. Le circuit entre Budapest et Belgrade est destiné à la correspondance échangée entre ces deux villes, ainsi à celle qui sera éventuellement échangée entre les autres villes et localités hongroises appartenant au réseau téléphonique interurbain hongrois, et Belgrade.

Le circuit entre Zimony et Belgrade est réservé à la correspondance échangée entre ces endroits.

II.

Essais.

1. chaque matin à l'ouverture du service de jour les bureaux centraux téléphoniques, auxquels aboutissent les circuits, vérifient les communications entre eux.

2. Les résultats des essais sont consignés aux procès-verbaux de chacun des bureaux centraux.

3. La résistance et l'isolement des fils sont mesurés deux fois par an; les Administrations règlent les détails de ces mesures.

III.

Dérangement. Difficultés de correspondance.

1. Dès qu'une difficulté de correspondance ou un dérangement est constaté, les Administrations prennent immédiatement, chacune en ce qui la concerne, les mesures requises pour y remédier.

2. Les bureaux centraux se préviennent, au besoin par la voie télégraphique, du résultat de leurs recherches, le lieu et la nature du dérangement ainsi que tous les renseignements utiles pour pouvoir promptement rétablir la communication interrompue.

IV.

Indications horaires.

1. Les indications horaires sont respectivement réglées sur l'heure officielle des deux pays (temps moyen de l'Europe centrale).

2. Les bureaux centraux téléphoniques se donnent l'heure à la clôture du service de jour, et plus souvent, s'il est nécessaire. Les horloges doivent être réglées dès qu'elles présentent une différence de plus d'une minute sur l'heure officielle.

V.

Vacations des bureaux téléphoniques.

1. Le service est permanent dans les bureaux de Budapest et de Belgrade.

2. Les heures d'ouverture des autres bureaux centraux s'il y en a et des postes publics sont determinées par les Administrations intéressées. Chacune des Administrations fait connaître à l'autre les heures ainsi fixées.

Un bureau central ou un poste public ne peut suspendre ou clôturer le service aux heures réglementaires avant d'avoir donné cours aux communications demandées avant l'heure fixée pour la suspension ou la clôture, cependant nul bureau ne peut être tenu sur pied à cet effet plus de trente minutes après l'heure de la clôture ou de suspension.

VI.

Durée des communications.

1. La durée effective d'une communication ordinaire, ne peut excéder l'unité fixée à trois (3) minutes. A l'expiration de ce délai, la communication est interrompue d'Office.

A la suite d'une demande préalable cependant la communication peut être établie pour une durée de six (6) minutes. La prolongation d'une communication déjà commencée n'est accordée que s'il n'y a aucune autre demande en instance.

Il va sans dire que les communications établies doivent avoir lieu sans interruption et entre les mêmes correspondants.

2. La durée de la correspondance prend cours à partir du moment où la communication est établie entre le poste demandeur et le poste demandé.

3. La durée des communications d'Etat et de service n'est pas limitée.

VII.

Tarifs.

La taxe d'une communication ordinaire à trois minutes est fixée pour les correspondances échangées entre Budapest et Belgrade à deux (2) couronnes (2 francs) et celle des correspondances échangées entre Zunony et Belgrade à une (1) couronne (1 franc).

2. Des communications urgentes ayant priorité sur les autres communications, sont admises moyennant le paiement d'une taxe triple de celle des autres communications.

3. En ce qui concerne la taxe additionnelle prévue à l'art. 7 de l'Arrangement pour les correspondances émanant des autres villes qui prendront éventuellement part à l'echange téléphonique établi entre Budapest et Belgrade, — les Administrations intéressées sont tenues de se faire connaître de cas en cas les villes admises à cette correspondance ainsi que la taxe additionnelle fixée à cet effet.

VIII.

Mode d'application des tarifs. Remboursement des taxes.

1. La taxe est due par la personne qui a demandé la communication.

2. Le montant des taxes versées est intégralement remboursé:

I. si le raccordement des correspondants n'a pu avoir lieu à la suite d'un vice technique ou d'un défaut d'exploitation du téléphone.

II. si le correspondant renonce à la conversation avant la mise en communication avec le poste appelé; et

III. si le poste appelé ne répond pas à l'appel:

Dans tous les autres cas où la conversation n'aurait pas eu lieu, il ne peut être accordé de dégrèvement de taxe.

IX.

Service des bureaux centranx.

1. Les communications téléphoniques sont établies par l'intermédiaire des bureaux centraux.

2. Les communications sont établies d'après l'ordre d'inscription des demandes à ce bureau.

3. Après avoir reconnu que la personne ou le bureau public demandé dispose des moyens de correspondance requis, le bureau central de départ réclame au bureau central d'arrivée la communication avec le poste téléphonique destinataire et aussitôt qu'il l'a obtenue, il en avise la personne ou le bureau public demandeur en l'invitant à parler.

Les bureaux notent aux procès-verbaux des communications l'heure de la mise en communication et, avant de se retirer du circuit, s'assurent que l'audition est satisfaisante dans les deux sens.

Leur entretien terminé, les correspondants sonnent immédiatement leurs bureaux centraux respectifs. L'heure de la cassation de la correspondance est inscrite aux procès-verbaux des communications.

Dès que la durée de la correspondance atteint l'unité de conversation les bureaux contraux rompent d'office la communication.

Les bureaux centraux répondent sans délai aux appels qui leurs sont adressés.

Lorsqu'un bureau central ne répond pas aux appels, le poste appelant le prévient au bout d'une minute, par un autre circuit. Si ce moyen ne peut être employé ou ne réussit pas, le poste appelant a recours au télégraphe pour informer le poste appelé de la situation.

X.

Service des postes publics.

1. Toute personne peut se servir des postes publics.

2. Les postes publics doivent répondre sans délai aux appels qui leur sont adressés.

3. Les postes publics ne peuvent demander à leur bureau central l'établissement d'une communication que dans le cas où la personne appelée est un abonné du réseau, ou si la personne qui demande la communication prétend que son correspondant est présent au poste appelé.

Lorsque la personne demandée, déclarée devoir être présente dans un poste public, ne répond pas, la communication ne peut être maintenue que moyennant l'application de la taxe réglementaire.

4. Les fonctionnaires aux postes publics indiquent aux intéressés les précautions à prendre dans l'usage des appareils pour obtenir les meilleurs résultats.

5. Les fonctionnaires aux postes publics tiennent note de l'instant précis de la mise en communication et de la fin des conversations.

6. Les fonctionnaires perçoivent préalablement les taxes des communications demandées.

XI.

Liste des abonnés et des postes publics.

1. Chaque Administration se charge de faire connaître à ses abonnés, les réseaux et les postes publics avec lesquels la correspondance téléphonique deut être établie.

2. Les bureaux centraux et les bureaux publics doivent posséder et tenir avec soin au courant la liste des postes en relation.

Les Administrations intéressées se communiquent à ces fins, en temps utile tous les renseignements nécessaires.

3. La liste officielle des abonnés et des postes publics est mise gratuitement dans les bureaux à la disposition du public.

4. Quand la personne appelée est enregistrée dans la liste officielle l'appel est fait au moyen du numéro qui figure dans la liste à côté du nom.

XII.

Correspondance de service.

1. Des correspondances exclusivement d'une nature officielle peuvent être échangées en franchise de taxe entre les fonctionnaires des Administration des Postes et Télégraphes spécialement autorisés à cette fin.

2. Les correspondances en franchise sont annoncées d'un poste à l'autre, par le mot „service".

3. Les correspondances de service sont exécutées en langue française.

XIII.

Avis de service taxés.

1. Si la personne qui demande la communication désire que son correspondant, qui n'est pas présent au bureau appelé soit avisé d'office de s'y rendre, cette invitation est faite par un avis de service taxé.

2. La taxe d'un avis de service taxé monte à 1 couronne (—1 franc).

3. L'avis de service est émis dans la forme suivante:

$\frac{\text{Mr.}}{\text{Mme}}$ N. N. demeurant à ..... intive $\frac{\text{Mr.}}{\text{Mme}}$ invite N. N. etc. demeurant à ..... à une conversation téléphonique $\frac{\text{ordinaire}}{\text{urgente}}$ de ..... minutes, devant avoir lieu le ..... à ..... heures ..... minutes ..... du bureau de .....

4. Ces avis de service sont échangés exclusivement entre les bureaux centraux qui s'annoncent ces communications par l'indication „service taxé".

5. La remise de ces avis à la personne demandée est effectuée à la manière prescrite pour les télégrammes urgents.

XIV.

Priorité et ordre de transmission.

1. Les correspondances ayant droit à la priorité de transmission sont:

1° celles qui émanent des autorités et fonctionnaires qui ont la faculté d'exprédier des télégrammes d'Etat elles sont soumises à la taxe ordinaire.

2° celles des fonctionnaires des deux Admistrations autorisés à correspondre en service lorsqu'ils réclament l'urgence.

3° Les correspondances privées urgentes.

2. L'ordre d'échange des correspondances téléphonique est établi comme suit:

1° correspondances d'Etat (initiées par l'indication „Etat").

2° communications de service urgentes (initiées par l'indication „service urgent").

3° correspondances privées urgentes (initiées par l'indication „Privé urgent"),

4° correspondances privées (initiées par l'indication „Privée").

5° correspondances de service non urgentes (initiées par l'indication „Service"),

3. Pour les correspondances de même nature les communications sont données dans l'ordre des demandes.

4. Entre les bureaux centraux les correspondances de même nature s'échangent dans l'ordre alternatif. Les correspondances jouissant de la priorité ne sont pas comprise dans l'ordre alternatif.

XV.

Secret des correspondances.

Les Administrations prennent toutes les dispositions utiles pour assurer le secret des correspondances.

XVI.

Procès-verbaux. Décomptes.

1. Le bureau central de chaque Administration dresse un procès-verbal mentionnant, outre les incidents de service, tous les éléments nécessaires à la perception des taxes et à l'établissement des comptes internationaux.

Si ces procès-verbaux ne concordent pas entre eux et si les bureaux ne parviennent pas à redresser les différences, les Administrations admettent de plein droit les inscriptions du bureau central du départ.

2. Les recettes provenant du service téléphonique font, de la part de chaque Administration, l'objet d'un compte spécial indépendant du compte des recettes télégraphiques.

3. Les comptes sont arrêtés mensuellement et l'échange en est fait entre les Administrations dans la forme indiquée ci-après:

Les bureaux centraux téléphoniques dressent à la base des données des procès verbaux de communication deux tableaux mensuels concernant les taxes perçues pour les conversations échangées sur la ligne:

a) L'un, concernant les conversations initiées par le bureau lui-même respectivement des taxes perçues par ce bureau.

b) L'autre, figurant comme tableau de contrôle, concernant les conversations demandées, respectivement des taxes perçues par l'autre bureau.

Les bureaux centraux soumettent ces tableaux chaque mois à la Comptabilité de l'Administration dont ils relèvent.

Les Comptabilités de leurs part dressent à la base des tableaux reçus aussi deux tableaux: l'un conformément au modèle 1) ci-annexé, comprenant les taxes perçues par les bureaux de leur propre Administration et l'autre conformément au modèle 2) ci-annexé, comprenant les taxes qui étaient à percevoir par les bureaux de l'autre Administration.

Les Comptabilités des Administrations intéressées échangent chaque mois les tableaux, dressés d'après le modèle 1) comprenant les quote-parts revenant selon les dispositions de l'art. 8. de l'Arrangement à chaque Administration.

La vérification de ces tableaux se fait à la base des indications des tableanx de contrôle et doit avoir lieu un mois après l'expiration de celui auquel ils se rapportent.

Quand il y a une différence entre les totaux fixés à la base des deux tableaux mentionnés on a recours aux pièces d'appui, mais seulement dans le cas où cette différence dépasse $1^0/_0$.

Si cependant la différence est moins de $1^0/_0$ les totaux mis en compte sont acceptés sans vérification.

Les totaux acceptés sont récapitulés trimestriellement dans un compte général dressé par le soin de l'Administration hongroise.

Dans le compte général la conversion de l'avoir serbe est effectuée d'après le taux de 100 couronnes = 105,014 francs.

4. Tous les documents concernant le service téléphonique international sont conservés pendant au moins six mois à compter du premier jour du mois qui suit la date à laquelle ils se rapportent.

Fait en double expédition et signé.

Belgrade, le $\frac{\text{28 juillet}}{\text{10 août}}$ 1904.

Pour la Serbie

Le Directeur Général des Postes et des Télégraphes.
(P. S.) *Miloch R. Yovanovitch* m. p.

Budapest, le 28 septembre 1904.

Pour la Hongrie

Le Directeur Général
(P. S.) *Pierre de Szalay* m. p.

89.

GRANDE-BRETAGNE, JAPON.

Convention concernant les relations Commerciales entre le Japon et les Indes; signée à Tokio, le 29 août 1904.

The Japan Daily Mail 1905.

The following Convention was published in the Official Gazette of the 16th instant. It received the Imperial Approval on the 14th.

His Majesty the Emperor of Japan and His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, being equally desirous of facilitating the commercial relations between Japan and India have resolved to conclude a Convention to that effect, and have named as their respective Plenipotentiaries:

His Majesty the Emperor of Japan, Baron Jutaro Komura, Jusammi, First Class of the Imperial Order of the Rising Sun, His Imperial Majesty's Minister of State for Foreign Affairs; and

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, Sir Claude Maxwell MacDonald, Knight Grand Cross of the Most Distinguished Order of St. Michael and St. George, Knight Commander of the Most Honourable Order of the Bath, His Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary;

Who, having reciprocally communicated their full powers, found in good and due form, have agreed as follows:

Article I.

Any article, the produce or manufacture of the dominions and possessions of His Majesty the Emperor of Japan shall enjoy, upon importation into India, the lowest customs duties applicable to similar products of any other foreign origin.

Article II.

Reciprocally any article, the produce or manufacture of India shall enjoy, upon importation into the dominions and possessions of His Majesty the Emperor of Japan, the lowest customs duties applicable to similar products of any other foreign origin.

Article III.

The privileges and engagements of the present Convention shall extend to native states of India which by treaty with His Britannic Majesty or otherwise may be entitled to be placed with regard to the stipulations of the Convention on the same footing as British India.

His Britannic Majesty's Government shall communicate from time to time to the Imperial Government of Japan a list of these states.

Article IV.

The present Convention shall be ratified and the ratifications shall be exchanged at Tokio as soon as possible. It shall come into effect immediately after the exchange of ratifications, and shall remain in force until the expiration of six months from the day on which one of the High Contracting Parties shall have announced the intention of terminating it.

In witness whereof the above mentioned Plenipotentiaries have signed the present Convention and have affixed thereto their seals.

Done in duplicate at Tokio, in the Japanese and English languages, this 29th day of 8th month of the 37th year of Meiji, corresponding to the 29th day of August of year one thousand nine hundred and four.

(L. S.) Baron *Jutaro Komura.*
His Imperial Japanese Majesty's Minister of State for Foreign Affairs.

(L. S.) *Claude M. MacDonald.*
His Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary.

90.

AUTRICHE-HONGRIE, ITALIE.

Déclaration concernant un nouvel arrangement provisoire des affaires commerciales; faite à Rome, le 24 septembre 1904.

Gazzetta Ufficiale del Regno d'Italia. No. 239. 1904.

Les négociations entamées entre l'Autriche-Hongrie et l'Italie, conformément à la déclaration du 31 décembre 1903, ont abouti à un nouveau traité de commerce et de navigation paraphé en même temps que la présente Déclaration, et destiné à remplacer le traité de commerce et de navigation du 6 décembre 1891.

Comme il a paru nécessaire, dans l'intérêt des bonnes relations commerciales et politiques des pays intéressés, de conclure jusqu'à la mise en vigueur de ce nouveau traité un nouvel arrangement provisoire, les Hautes Parties contractantes, sont tombées d'accord sur les dispositions suivantes:

Pendant la durée du présent arrangement le traité de commerce et de navigation entra l'Autriche-Hongrie et l'Italie du 6 décembre 1891, ainsi que le cartel de douane, les articles additionnels, le protocole final et autres annexes, signés le même jour, resteront en vigueur, à l'exception de la disposition contenue sous III § 5 dudit protocole final.

Vu néanmoins que, contre compensations correspondantes obtenues par l'Italie pour ses importations, le nouveau traité ne contient aucune stipulation relative au droit sur le vin lequel se trouve par le nouveau traité soumis au traitement de la nation la plus favorisée, on est convenu d'accorder au benéfice des vins blancs de coupage provenant des pays ayant droit au traitement de la nation la plus favorisée et importés en Autriche-Hongrie pendant le laps de temps du 15 octobre jusqu'à 31 décembre 1904 les avantages et le droit de faveur suivants:

ex 77 a). Vins blancs naturels de coupage, en fûts, de la récolte de l'année 1904, dans lesquels deux tiers de la richesse primordiale en sucre ont disparu par suite de la fermentation, ayant une richesse alcoolique calculée supérieure à onze et demi pour cent ($11^1/_2$ %) en volume et non supérieure à quinze pour cent (15 %), et renfermant vingt-et-un (21) grammes ou plus d'extrait libre de sucre par litre, pour coupage sous contrôle officiel, en tant que l'importation de ces vins ait lieu entre le 15 octobre et le 31 décembre incl. de l'année 1904, par voie de chemin de fer, à travers la frontière de terre, jusqu'à concurrence de 450,000 q. . . . . les 100 kg. bruts, fl. en or 6. 50.

L'importation de ces vins devra s'effectuer par les bureaux de douane de Vienne et de Budapest, et le coupage devra se faire, au plus tard, jusqu'au 31 décembre 1906.

A partir du 1er janvier 1905, les vins blancs de coupage de même que tous les autres vins, de quelque provenance ou de quelque qualité qu'ils soient, seront, lors de leur importation en Autriche-Hongrie, traités selon le principe de la nation la plus favorisée.

L'Autriche-Hongrie se déclare prête à concéder qu'à partir du 15 octobre 1904 les articles suivants jouiront, lors de leur entrée dans le territoire douanier austro-hongrois, des droits de faveur stipulés ci-après, savoir:

			fl. en or
14 a)	Amandes sèches avec ou sans coque		exempte
ex 30)	Noisettes mûres, sèche	les 100 kg.	1
ex 72)	Huile d'olive pure en futailles, outres et vessies	„	2
	Huile extraite par le sulfure de carbone		exempte.

Le présent arrangement entrera en vigueur le 15 octobre 1904 et restera exécutoire jusqu'à la mise en vigueur du nouveau traité conclu en même temps, mais avec faculté d'en faire cesser les effets à tout moment après le 31 décembre 1905 moyennant dénonciation six mois à l'avance.

En foi de quoi, la présente Déclaration a été dressée et signée en double exemplaire.

Fait à Rome, le 24 septembre 1904.

L'Ambassadeur d'Autriche-Hongrie
(L. S.) *Lützow.*

Le Ministre des affaires étrangères d'Italie
(L. S.) *Tittoni.*

91.

ITALIE, SUISSE.

Traité de commerce; signé à Rome, le 13 juillet 1904, suivi d'un échange de notes de 10/11 octobre 1904, et d'un protocole du 13 décembre 1904.*)

Gazzetta Ufficiale del Regno d'Italia. 31 décembre 1904.

Sa Majesté le Roi d'Italie et le Conseil fédéral de la Confédération Suisse, animés d'un égal désir de resserrer les liens d'amitié et de développer les relations commerciales entre les deux Pays, ont résolu de conclure un nouveau traité et ont nommé à cet effet pour leurs plénipotentiaires, savoir:

*) Les ratifications ont été échangées à Rome, le 28 décembre 1904.

Sa Majesté le Roi d'Italie:

S. Exc. M. Tommaso Tittoni, Ministre des affaires étrangères;

S. Exc. M. Luigi Luzzatti, Ministre du trésor et Ministre ad interim des finances;

S. Exc. M. Luigi Rava, Ministre de l'agriculture, de l'industrie et du commerce;

M. G. Malvano, Sénateur, Sécrétaire général au Ministère R. des affaires étrangères;

M. E. Pantano, Député au Parlement national;

M. N. Miraglia, ancien Député, ancien Directeur général de l'agriculture;

M. G. Callegari, Inspecteur général du commerce et de l'industrie;

M. L. Luciolli, Directeur chef de devision à la Direction générale des douanes.

Le Conseil fédéral de la Confédération Suisse:

M. G. B. Pioda, Envoyé extraordinaire et Ministre plénipotentiaire de Suisse à Rome;

M. le colonel A. Künzli, Conseiller national;

M. A. Frey, Conceiller national, Vice-président de l'Union Suisse du commerce et de l'industrie;

M. E. Laur, Secrétaire de l'Union Suisse des paysans;

lesquels, après avoir échangé leurs pleins-pouvoirs respectifs, trouvés en bonne et due forme, sont convenus des articles suivants:

Art. 1er.

Les Parties contractantes se garantissent réciproquement, en ce qui concerne l'importation, l'exportation et le transit, les droits et le traitement de la nation la plus favorisée.

Chacune des Parties contractantes s'engage, en conséquence, à faire profiter l'autre, gratuitement, de tous les privilèges et faveurs que, sous les rapports précités, elle a concédés ou concéderait à une tierce Puissance, notamment quant au montant, à la garantie et à la perception des droits fixés ou non dans de présent traité, aux entrepôts de douane, aux taxes intérieures, aux formalités et au traitement des expéditions en douane, et aux droits d'accise ou de consommation perçus pour le compte de l'Etat, des provinces, des cantons ou des communes.

Sont exeptées, toutefois, les faveurs actuellement accordées ou qui pourraient, être accordées ultérieurement à d'autres Etats limitrophes pour faciliter le trafic-frontière.

Art. 2.

Les Parties contractantes s'engagent à ne pas entraver le commerce réciproque par des prohibitions quelconques d'importation, d'exportation ou de transit.

Des exceptions à cette règle pourront avoir lieu dans les cas suivants:

1. dans les circonstances exceptionnelles, par rapport aux provisions de guerre;

2. pour des raisons de sûreté publique;

3. par égard à la police sanitaire et en vue de la protection des animaux, ainsi que des plantes utiles, contre les maladies, les insectes et parasites nuisibles;

4. par égard aux monopoles d'Etat.

Art. 3.

Dans les échanges entre les deux Pays, les droits d'entrée et de sortie des articles désignés dans les annexes A à D ne pourront dépasser les taux qui y sont indiqués.

Les parties contractantes se réservent réciproquement le droit de percevoir les droits d'entrée et de sortie en or, tout en se garantissant, à cet égard, le traitement de la nation la plus favorisée.

Si l'une des Parties contractantes frappe les produits d'un tiers pays des droit plus élevés que ceux fixés dans le présent traité elle est autorisée, au cas où les circonstances l'exigeraient, à faire dépendre l'application des droits conventionnels aux marchandises provenant de l'autre Partie, de la présentation de certificats d'origine.

Lesdits certificats pourront émaner de l'autorité locale du lieu d'exportation ou du bureau de douane d'expédition, soit à l'intérieur, soit à la frontière, des chambres de commerce ou bien d'un agent consulaire. Au besoin, ils pourront même être remplacés par la facture, si les Gouvernements respectifs le jugent convenable.

L'émolument pour la délivrance ou le visa des certificats d'origine et autres documents constatant l'origine des marchandises ne pourra dépasser 50 centimes par pièce.

Art. 4.

Les marchandises de toute nature, en transit, seront réciproquement affranchies de tout droit de transit, soit qu'elles transitent directement, soit que pendant le transit, elles doivent être déchargées, déposées et rechargées.

Les Parties contractantes s'engagent en outre à ne pas soumettre le transit à des formalités ou autres mesures qui seraient de nature à l'entraver.

Art. 5.

Le droits de dédouanement aux bureaux des points-frontière italo-suisses ne pourront dépasser, pendant la durée du présent traité, les taux fixés par les tarifs actuellement en vigueur concernant soit les taxes dévolues à l'administration douanière soit les taxes à percevoir pour le compte des chemins de fer.

Il est entendu, en outre, qu'il ne pourra être prélevé, pendant la durée du traité, aucune taxe de dédouanement non expressément indiquée dans lesdits tarifs.

Art. 6.

En cas de dédouanement de marchandises volumineuses et lourdes, taxées au poids brut, qui sont chargées sur des wagons sans récipients et y sont fixées au moyen d'échafaudages ou d'autres installations appliqués sur les wagons d'une manière fixe ou passagère, le droit sera perçu sans tenir compte du poids des échafaudages au installations, pourvu que ces derniers n'aient évidemment d'autre but que d'adapter le wagon au transport de cette espèce de marchandises et de les y tenir bien fixes durant le voyage.

Dans ce cas, les échafaudages ou installations seront considérés comme parties intégrantes des wagons.

Toutefois, les douanes auront la faculté d'exiger une garantie pour le montant du droit auquel les échaufaudages ou installations seraient assujettis, s'ils étaient importés séparément.

Art. 7.

Les droits grevant la production, la préparation ou la consommation d'un article quelconque ne peuvent être plus élevés ou plus onéreux pour les articles importés de l'un des deux Pays dans l'autre que pour les produits indigènes.

Cette disposition ne s'applique pas aux marchandises qui font l'objet d'un monopole d'Etat, non plus qu'aux matières premières propres à leur fabrication.

Art. 8.

Les droits ainsi que les taxes intérieures grevant la production ou la préparation des marchandises peuvent être restituées, en tout ou en partie, lors de l'exportation des produits qui les ont acquittés ou des marchandises qui ont été fabriquées avec ces produits.

Chacune des Parties contractantes s'engage, par contre, à ne pas accorder de primes d'exportation, pour aucun article et sous quelque titre ou quelque forme que ce soit, sauf consentement de l'autre Partie.

Art. 9.

Les produits constituant l'objet de monopoles d'Etat, ainsi que les matières propres à la fabrication de produits monopolisés, pourront, en garantie des monopoles, être assujettis à une taxe d'entrée complémentaire, même dans le cas où les produits ou les mantières similaires indigènes n'y seraient pas soumis.

Cette taxe sera remboursée si, dans les délais prescrits, il est prouvé que les matières imposées ont été employées, dune manière excluant la fabrication d'un article monopolisé.

Les deux Gouvernements se réservent la faculté de frapper les produits alcooliques ou fabriqués avec de l'alcool, d'un droit équivalent aux charges fiscales dont est grevé, à l'intérieur du pays, l'alcool employé.

Art. 10.

Pour le cas où l'Italie introduirait le contrôle obligatoire des articles d'orfèvrerie, de bijouterie et d'horlogerie (montres et boîtes de montres) en or ou en argent, les articles de l'espèce importés de Suisse ne paieront pas des taxes plus élevées que les objets de fabrication indigène et les formalités de contrôle seront simplifiées autant que possible.

Art. 11.

Les Parties contractantes s'engagent à maintenir, dans les principales avenues de routes qui relient les deux Etats, des bureaux-frontière dûment et suffisamment autorisés à percevoir les droits de douane et à faire les opérations relatives au transit sur les routes qui seront reconnues comme voies de transit.

Les formalités pour les expéditions, nécessaires à tout genre de trafic, seront de part et d'autre simplifiées et accélérées autant que possible.

Art. 12.

A fin de faciliter la circulation à la frontière, il a été convenu d'affranchir réciproquement de tous droits d'importation, d'exportation ou de circulation les produits suivants des propriétés situées dans une zone de dix kilomètres de chaque côté de la frontière:

les céréales en gerbes ou en épis;
les foins, la paille et les fourrages verts;
les fruits frais, y compris les raisins frais;
les légumes verts;

Seront également affranchis: le fumier, les détritus de marais, les boues végétales, la lie et le marc de raisin, le résidu des gâteaux de cire, le sang des bestiaux, les semences, plantes, perches, échalas, la nourriture journalière des ouvriers, les animaux et les intruments agricoles de toute sorte; tout ceci servant à la culture de ces propriétés, et sous réserve du contrôle et de la faculté de la répression en cas de fraude.

Les propriétaires ou cultivateurs de ces terres, domiciliés dans l'autre Etat, jouiront généralement, quant à l'exploitation de leurs biens, des mêmes avantages que les nationaux habitant la localité, à la condition qu'ils se soumettront aux règlements administratifs ou de police applicables aux ressortissants du pays.

Art. 13.

Pour favoriser le trafic spécial qui s'est développé entre les deux Pays voisins et notamment entre les Pays de frontière respectifs, franchise temporaire des droits à l'entrée et à la sortie est accordée au bétail conduit d'un territoire à l'autre, aux marchés, à l'hivernage et aux pâturages des Alpes. Sont toutefois réservées les prescriptions et stipulations en vigueur ou à intervenir.

Art. 14.

Sous obligation de réexportation ou de réimportation dans le délai de six mois et de la preuve d'identité, la franchise de tous droits d'entrée et de sortie est stipulée réciproquement;

1. pour les objets à réparer;

2. pour les échantillons passibles de droits de douane, y compris ceux des voyageurs de commerce:

3. pour les sacs, caisses, tonnneaux, paniers et autres récipients semblables, signés et ayant déjà servi, importés vides pour être réexportés remplis ou réimportés vides après avoir été exportés remplis;

4. pour les outils et instruments introduits par des ouvriers envoyés en Italie par une maison suisse, ou en Suisse par une maison italienne, pour y accomplir des travaux de montagne, de réparation ou autres semblables;

5. pour les parties de machines, expédiées de l'un des deux Pays dans l'autre, à l'essai (telles que arbres destinés à être adaptés aux paliers, etc.) et qui, après avoir été retournées dans le pays d'origine, doivent être réexpédiées dans l'autre pays avec la machine complète.

En cas de besoin prouvé, le délai ci-dessus sera étendu à douze mois.

Art. 15.

Le porteur d'une carte de légitimation pour voyageurs de commerce délivrée par les autorités de l'une des Parties contractantes peut, en observant les formalités prescrites dans le territoire de l'autre, y prendre des commandes auprès des commerçants ou des personnes qui font un usage professionnel ou industriel des marchandises offertes, sans être soumis à ce titre à aucun droit ou impôt. Il est loisible audit porteur de prendre avec lui des échantillons, mais non des marchandises, sauf dans les cas où cela est permis aux voyageurs de commerce indigènes.

Quant aux yoyageurs de commerce qui recherchent des commandes chez d'autres personnes que celles mentionnées ci-dessus, ils sont traités sur le même pied que les nationaux.

Le formulaire des cartes de légitimation pour voyageurs de commerce est consigné dans l'anexé E du présent traité.

Art. 16.

Les Parties coutractantes déclarent reconnaître mutuellement à toutes les sociétés anonymes ou autres, commerciales, industrielles ou financières, constituées et autorisées suivant les lois particulières à l'un des deux Pays, la faculté d'exercer tous leurs droits et d'ester en justice devant les tribunaux, soit pour intenter une action, soit pour s'y défendre, dans toute l'étendue des Etats et possessions de l'autre Puissance, sans autre condition que de se conformer aux lois (y compris les lois financières) desdits Etats et possessions.

Art. 17.

Les Parties contractantes s'engagent à examiner d'un accord commun et amical le traitement des ouvriers italiens en Suisse et des ouvriers suisses en Italie à l'égard des assurances ouvrières dans le but d'assurer, par des arrangements opportuns, aux ouvriers des Nations respectives dans l'autre Pays un traitement qui leur accorde des avantages autant que possible équivalents.

Ces arrangements seront consacrés indépendamment de la mise en vigueur du présent traité, par un acte séparé.

Art. 18.

Si des contestations venaient à surgir au sujet de l'interprétation du présent traité, y compris les annexés A à F, et que l'une des Parties contractantes demande qu'elles soient soumises à la décision d'un tribunal arbitral, l'autre Partie devra y consentir, même pour la question préjudicielle de savoir si la contestation se rapporte à l'interprétation du traité. La décision des arbitres aura force obligatoire.

Art. 19.

Le présent traité sera mis en vigueur ainsi qu'il suit:

1. Les articles 1 à 21 du texte du traité et les dispositions additionnelles (annexé F) s'y rapportant;

les annexes A et B „Droit à l'entrée en Italie“ et „Droits à la sortie d'Italie“ ainsi que les dispositions additionnelles (annexe F) se rapportant à ces deux annexes: le 1er juillet 1905;

2. Les annexes C et D „Droits à l'entrée en Suisse“ et „Droits à la sortie de Suisse“ ainsi que les dispositions additionnelles (annexe F) se rapportant à ces deux annexes: à la date de la mise en vigueur de la loi fédérale sur le tarif des douanes, du 10 octobre 1902, date qui sera notifiée au Gouvernement italien trois mois à l'avance.

Les stipulations correspondantes du traité de commerce du 19 avril 1892 sont maintenues en vigueur jusqu'aux dates ci-dessus énoncées et elles cesseront de ressortir leurs effets ainsi qu'il suit:

Les articles 1 à 16 et les dispositions y relatives du procès-verbal de clôture, le tarif B „Droits à l'entrée en Italie“ et le tarif D „Droits à la sortie d'Italie“, ainsi que les dispositions y relatives du procès-verbal de clôture: le 30 juin 1905;

le tarif A „Droits à l'entrée en Suisse“, ainsi que les dispositions y relatives du procès-verbal de clôture et le tarif C „Droits à la sortie de Suisse“: à la date de la mise en vigueur de la loi fédérale précitée.

Art. 20.

Le présent traité restera exécutoire jusqu'au 31 décembre 1917. Dans le cas où aucune des Parties contractantes n'aurait notifié, douze mois avant ladite date, son intention d'en faire cesser les effets, ledit

traité demeurera obligatoire jusqu'à l'expiration d'un an à partir du jour où l'une ou l'autre des Parties contractantes l'aura dénoncé.

Art. 21.

Le présent traité, y compris les annexés A à F,*) qui en font partie intégrante, sera ratifié, et les ratifications en seront échangées à Rome le plus tôt possible.

En foi de quoi, les plénipotentiaires l'ont signé et revêtu de leurs cachets.

Fait à Rome, en double expédition, le treize (13) juillet mil-neuf-cent-quatre (1904).

(L. S.)	*Tittoni.*	(L. S.)	*J. B. Pioda.*
(L. S.)	*L. Luzzatti*	(L. S.)	*A. Künzli.*
(L. S.)	*L. Rava.*	(L. S.)	*Alfred Frey.*
(L. S.)	*G. Malvano.*	(L. S.)	*Ernst Laur.*
(L. S.)	*E. Pantano.*		
(L. S.)	*N. Miraglia.*		
(L. S.)	*G. Callegari.*		
(L. S.)	*L. Luciolli*		

Annexe F. — Dispositions additionnelles.

1. En ce qui concerne le texte du traité.

Ad art. 5. En vue de l'exacte application des taxes de dédouanement perçues pour le compte de l'administration des chemins de fer d'après les tarifs actuellement en vigueur, le Gouvernement italien s'engage à faire donner des instructions aux bureaux compétents, dans le sens que si un seul et même colis contient des marchandises appartenant à deux ou plusieurs positions ou souspositions du tarif douanier italien, les droits de dédouanement (commission et factage) dont il est question à l'article 5 du traité, ne seront pas perçus sur chaque espèce de merchandises, mais uniquement sur le poids total du colis, étant toutefois admis que si le colis contient des merchandises différentes, dont une partie appartient à la 1re catégorie du tarif des taxes de dédouanement, le colis entier sera soumis aux taxes de ladite catégorie.

L'application des lamine et des pallottole aux tissus actuellement soumis à cette formalité, cesse dès la mise en vigueur du présent traité.

Ad art. 11 il est entendu ce qui suit:

1. les bureaux de douane italiens à Chiasso-Stazione et à Luino seront munis des compétences nécessaires pour opérer le dédouanement de toutes espèces de marchandises et dans tous les genres de trafic;

2. le bureau italien de Ponte-Chiasso devra effectuer le dédouanement de toutes marchandises.

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*) A à E non imprimés.

Le Gouvernement italien s'engage à exécuter les dispositions ci-dessus dès l'entrée en vigueur du présent traité.

Il est entendu, en outre, que les offices douaniers de chacune des Parties contractantes fourniront au public de l'autre Partie tout renseignement qui pourrait leur être demandé sur la classification de tel ou tel article spécial.

Ad art. 13. A la demande de l'Italie, les deux Parties s'engagent à ouvrir une négociation spéciale sur la question d'étendre à tous les bureaux de douanes suisses les règles établies par la convention de Milan du 4 mai 1901 pour l'estivage du bétail.

Ad art. 14. Dans le cas où des marchandises expédiées de l'un des deux Pays dans l'autre et se trouvant encore en douane, seraient refusées par leurs destinataires ou devraient être réexpédiées pour d'autres causes à l'expéditeur primitif, dans la même condition où elles sont arrivées, la réexportation sans paiement des droits d'entrée sera accordée, même si la douane a déjà fait sa visite et si les droits ont été liquidés.

Ad art. 18 A l'égard de la composition et de la procédure du tribunal arbitral, il est convenu ce qui suit:

1. Le tribunal se composera de trois membres. Chacune des deux Parties en nommera un dans le délai de quinze jours après la notification de la demande d'arbitrage.

Ces deux arbitres choisiront le surarbitre qui ne pourra ni être ressortissant d'un des deux Etats en cause, ni habiter sur leur territoire. S'ils n'arrivent pas à s'entendre sur son choix dans un délai de huit jours, sa nomination sera immédiatement confiée au Président du Conseil administratif de la Cour permanent d'arbitrage à la Haye.

Le surabritre sera président du tribunal; celui-ci prendra ses décisions à la majorité des voix.

2. Au premier cas d'arbitrage, le tribunal siégera dans le territoire de la Partie contractante défenderesse; au second cas, dans le territoire de l'autre Partie et ainsi de suite alternativement, dans l'un et dans l'autre territoire, dans une ville que désignera la Partie respective; celle-ci fournira les locaux, ainsi que le personnel de bureau et de service nécessaires pour le fonctionnement du tribunal.

3. Les Parties contractantes s'entendront dans chaque cas spécial ou une fois pour toutes sur la procédure du tribunal arbitral. A défaut d'une telle entente, la procédure sera réglée par le tribunal lui-même. La procédure peut se faire par écrit si aucune des Parties ne soulève d'objection; dans ce cas, les dispositions du chiffre 2 ci-dessus ne reçoivent leur application que dans la mesure nécessitée par les circonstances.

4. Pour la citation et l'audition de témoins et d'experts, les autorités de chacune des Parties contractantes prêteront, sur la réquisition du tribunal arbitral à adresser au Gouvernement respectif, leur assistance de la même manière que sur les réquisitions des tribunaux civils du pays.

92.

AUTRICHE-HONGRIE, BAVIÈRE.

Convention concernant la jonction des chemins de fer à la frontière des deux pays; signée à Munich, le 22 novembre 1904.*)

Wiener Zeitung. 14. Februar 1905.

Seine Majestät der Kaiser von Oesterreich, König von Böhmen usw. und Apostolischer König von Ungarn, und Seine Königliche Hoheit Prinz Luitpold, des Königreichs Bayern Verweser, im Namen Seiner Majestät des Königs, haben zum Zwecke der Herstellung weiterer Eisenbahnverbindungen zwischen den beiderseitigen Staatsgebieten und, um die hierauf bezüglichen Verhältnisse vertragsmässig zu regeln und festzustellen, zu Bevollmächtigten ernannt:

Seine Majestät der Kaiser von Österreich, König von Böhmen usw. und Apostolischer König von Ungarn:

Allerhöchstihren Geheimen Rat, a. o. Gesandten und bevollmächtigten Minister Theodor Grafen Zichy zu Zich und von Vásonykeö,

und

Seine Königliche Hoheit Prinz Luitpold, des Königreichs Bayern Verweser:

Allerhöchstihren Kämmerer, Staatsrat i. o. D., Staatsminister des Königlichen Hauses und des Äussern, Vorsitzenden im Ministerrat Klemens Freiherrn von Podewils-Dürniz,

von welchen nach geschehener Mitteilung und gegenseitiger Anerkennung ihrer Vollmachten unter dem Vorbehalte der Ratifikation der nachstehende Vertrag verabredet und abgeschlossen worden ist.

Artikel I.

Die hohen vertragschliessenden Teile sind übereingekommen, die Ausführung der Eisenbahnverbindung:

1. von Wallern nach Waldkirchen;
2. von Reutte über Vils nach Pfronten

nach Massgabe der nachfolgenden Bestimmungen sicherzustellen.

Die kaiserlich-königliche österreichische Regierung wird die Ausführung der zwischen der bestehenden Station Wallern oder einem anderen geeigneten Punkte der Lokalbahn Strakonitz—Winterberg—Wallern und der Reichsgrenze zwischen Brandhäuser und Haidmühle gelegene Teilstrecke der neu herzustellenden Eisenbahnverbindung von Wallern nach Waldkirchen sowie der

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*) Les ratifications ont été échangées à Vienne le 18 janvier 1905.

zwischen Reutte und der Reichsgrenze bei Schönbichl gelegenen Strecke der in Aussicht genommenen Eisenbahnverbindung von Reutte über Vils nach Pfronten in dem ihr geeignet erscheinenden Zeitpunkte im Wege der Erteilung der Konzession an Privatunternehmungen sicherstellen.

Über die erfolgte Sicherstellung des Baues der vorangeführten Bahnstrecken wird die kaiserlich-königlich österreichische Regierung der königlich bayrischen Regierung jeweils rechtzeitig Mitteilung machen, und wird sodann die königlich bayerische Regierung die Anschlussstrecken der vorgenannten Bahnlinien von der Reichsgrenze zwischen Brandhäuser und Haidmühle nach Waldkirchen und von der Reichsgrenze bei Schönbichl nach Pfronten für eigene Rechnung als Staatsbahn ausführen und den Bau derart beschleunigen, dass die gedachten Linien tunlichst gleichzeitig mit den österreichischen Anschlussstrecken in Betrieb gesetzt werden.

Artikel II.

Die königlich bayerische Regierung behält sich vor, die Ausführung einer Eisenbahn von Berchtesgaden, eventuell im Anschluss an die dortige Station der königlich bayerischen Staatseisenbahnen, bis zur beiderseitigen Grenze in der Richtung gegen St. Leonhard-Drachenloch in dem ihr geeignet erscheinenden Zeitpunkte auf Grund gesetzlicher Ermächtigung für Rechnung des Staates zu bewerkstelligen.

Über die erfolgte Sicherstellung des Baues der vorangeführten Eisenbahn wird die königlich bayerische Regierung der kaiserlich-königlich österreichischen Regierung rechtzeitig Mitteilung machen, und wird sodann die kaiserlich-königlich österreichische Regierung der Salzburger Eisenbahn- und Tramway-Gesellschaft die Bewilligung zum Baue und Betriebe der auf österreichischem Gebiete gelegenen Teilstrecke von der Grenze bis St. Leonhard-Drachenloch in Gemässheit der Bestimmungen der Allerhöchsten Konzessions-Urkunde vom 21. April 1885, Reichsgesetzblatt Nr. 70, erteilen.

Artikel III.

Die beiden hohen Regierungen stimmen darin überein, vorbehaltlich des Zustandekommnes einer besonderen Vereinbarung über die diesbezüglich in Betracht kommenden näheren Modalitäten, die Herstellung einer Eisenbahnverbindung von Garmisch-Partenkirchen über Mittenwald und Scharnitz nach Innsbruck oder einem anderen geeigneten Punkte der Bahnlinie Innsbruck—Landeck zuzulassen und in der von ihnen für geeignet erachteten Weise zu fördern.

Unter dem gleichen Vorbehalte nehmen die beiden hohen Regierungen die Zulassung und Förderung einer Bahnlinie von Garmisch-Partenkirchen über Lermoos nach Reutte in Aussicht.

Artikel IV.

Die spezielle Feststellung der Bahnlinien sowie des gesamten Bauplanes und der einzelnen Bauentwürfe bleibt jeder der beiden hohen Regierungen für ihr Gebiet vorbehalten.

Nachdem die Feststellung des Punktes, wo die in Artikel I genannte Eisenbahn von Reutte nach Pfronten die Grenze überschreitet, bereits durch technische, zu diesem Zwecke abgeordnete Kommissäre erfolgt ist, genehmigen die beiden hohen Regierungen die diesbezüglich getroffene Vereinbarung.

Dagegen werden die Punkte, wo die im Artikel I angeführte Eisenbahn von Wallern nach Waldkirchen, dann die in den Artikeln II und III bezeichneten Eisenbahnen die Grenze überschreiten sollen, erst im Wege gemeinsamer Verhandlung durch beiderseitige Kommissäre bestimmt werden.

Zum Zwecke der Erwerbung der zur Anlage der in Artike II, II und III bezeichneten Eisenbahnen erforderlichen Grundstücke soll den Unternehmern in jedem der beiden Staatsgebiete das Enteignungsrecht nach den dort jeweilig geltenden gesetzlichen Bestimmungen eingeräumt werden.

Artikel V.

Die den Gegenstand dieses Staatsvertrages bildenden Eisenbahnen sollen als Lokal- beziehungsweise Nebenbahnen zur Ausführung gelangen und zunächst nur mit einem durchgehenden Gleise versehen werden. Sollte späterhin das Bedürfnis nach Herstellung des zweiten Gleises auf einer oder der anderen dieser Bahnlinien oder auf einzelnen Teilstrecken derselben oder nach einer sonstigen zur ungestörten Abwicklung des Verkehrs notwendigen weiteren Ausgestaltung der ersten Bau- und Betriebseinrichtungen sich herausstellen, so werden die hohen Regierungen behufs einer Verständigung hierüber in weitere Verhandlung treten.

Die Spurweite der Gleise der in den Artikeln I und II genannten Bahnen soll in Uebereinstimmung mit den anschliessenden Bahnen 1·435 Meter im Lichten der Schienen betragen.

Die Konstruktionsverhältnisse der anzulegenden Bahnstrecken und deren Betriebsmittel sollen dergestalt nach gleichmässigen Grundsätzen festgestellt werden, dass auf den beiderseitigen Bahnstrecken ein ineinandergreifender Betrieb stattfinden kann, insbesondere auch die Betriebsmittel wechselseitig ungehindert übergehen und benutzt werden können.

Die von einer der beiden hohen Regierungen geprüften Betriebsmittel werden ohne nochmalige Prüfung auch auf der im Gebiete der anderen liegenden Bahnstrecke zugelassen werden.

Die Festsetzung der Spurweite der im Artikel III bezeichneten Bahnen bleibt späterer Vereinbarung zwischen den beiden hohen Regierungen vorbehalten.

Artikel VI.

Die beiden hohen Regierungen verpflichten sich, zuzulassen beziehungsweise anzuordnen, dass die in den Artikeln I, II und III genannten Bahnen an ihren Endpunkten in angemessene Verbindung mit den im gegebenen Zeitpunkte daselbst bestehenden Eisenbahnen gesetzt werden.

Artikel VII.

Die volle Landeshoheit (also auch die Ausübung der Justiz- und Polizeigewalt) bleibt auf den Grenzbahnhöfen sowie auf den zwischen diesen

Bahnhöfen und der Grenze gelegenen Bahnstrecken, endlich in Ansehung der die beiderseitige Grenze überschreitenden Bahnlinien auf jedem der beiden Gebiete der betreffenden Territorialregierung aussschliesslich vorbehalten.

Artikel VIII.

Die hohen Regierungen behalten sich vor, zur Handhabung der ihnen über die bezüglichen Bahnstrecken in ihrem Gebiete und den Betrieb, auf denselben zustehenden Hoheits- und Aufsichtsrechte Kommissäre zu bestellen, welche die Beziehungen ihrer Regierungen zu den Eisenbahnverwaltungen in allen denjenigen Fällen zu vertreten haben, die nicht zum direkten gerichtlichen oder polizeilichen Einschreiten der zuständigen Landesbehörden geeignet sind.

Artikel IX.

Unbeschadet des Hoheits- und Aufsichtsrechtes der hohen vertragschliessenden Teile über die in ihren Gebieten gelegenen Bahnstrecken und über den darauf stattfindenden Betrieb verbleibt die Ausübung des Oberaufsichtsrechtes über die den Betrieb führenden Eisenbahnverwaltung im allgemeinen derjenigen Regierung, in deren Gebiete dieselben ihren Sitz haben.

Artikel X.

Die Bahnpolizei wird unter Aufsicht der dazu in jedem der beiden Gebiete zuständigen Behörden in Gemässheit der für jedes Gebiet geltenden Vorschriften und Grundsätze zunächst durch die Beamten der den Betrieb der betreffenden Bahnstrecke führenden Eisenbahnverwaltung gehandhabt werden.

Auf den auf österreichischem Gebiete gelegenen Strecken der in Artikel I genannten Eisenbahn von der beiderseitigen Grenze bis Reutte sowie im Falle der Einführung eines durchgehenden Personenzugsverkehrs zwischen Berchtesgaden und Salzburg auch zwischen der beiderseitigen Grenze und Salzburg sind auch die beim Zugförderungs- und Fahrdienste verwendeten Organe der königlich bayerischen Staatseisenbahn-Verwaltung (Artikel XVII) in ihrem Wirkungskreise zu der Handhabung der Bahnpolizei berufen.

Dieselben Befugnisse sollen in letzterem Falle auch den im Zugförderungs- und Fahrdienste verwendeten Organen der österreichischen Bahnverwaltung auf der auf bayerischem Gebiete gelegenen Bahnstrecke von der beiderseitigen Grenze bis Berchtesgaden zustehen.

Artikel XI.

Insoweit ein österreichischer Unternehmer innerhalb des bayerischen Gebietes oder ein deutscher Unternehmer innerhalb des österreichischen Gebietes den Bau beziehungsweise den Betrieb einer oder der anderen der den Gegenstand dieses Vertrages bildenden Bahnlinien ganz oder teilweise übernimmt oder künftig übernehmen sollte, hat sich derselbe rücksichtlich aller aus der Anlage und aus dem Betriebe der Bahn herzuleitenden Entschädigungsansprüche den Gesetzen und der Gerichtsbarkeit des Staates, in welchem die Schadenszufügung stattgefunden hat, zu unterwerfen, insofern der Ent-

schädigungsanspruch nicht aus einem mit der betriebführenden Bahnverwaltung oder mit einer der übrigen an dem Transporte beteiligten Bahnen abgeschlossenen Frachtgeschäfte hergeleitet wird.

Artikel XII.

Staatsangehörige des einen der hohen vertragschliessenden Teile, welche von den Eisenbahnverwaltungen beim Betriebe einer im Gebiete des anderen Teiles gelegenen Strecke etwa angetsellt werden, scheiden dadurch nicht aus dem Untertanenverbande ihres Heimatslandes aus.

Die Stelle der Lokalbeamten, mit Ausnahme der Bahnhofsvorstände, der Telegraphen- und derjenigen Beamten, welche mit der Erhebung von Geldern betraut sind, sollen jedoch tunlichst mit einheimischen Staatsangehörigen besetzt werden.

Sämtliche Beamte sind ohne Unterschied des Ortes ihrer Anstellung bei der Bahn rücksichtlich der Disziplinarbehandlung und der Anstellungsbehörde, im übrigen aber den Gesetzen und Behörden des Staates unterworfen, in welchem sie ihren Wohnsitz haben.

Artikel XIII.

Die Feststellung und Genehmigung der Fahrpläne und Tarife bleibt derjenigen Regierung vorbehalten, in deren Gebiete die betriebführende Eisenbahnverwaltung ihren Sitz hat.

Artikel XIV.

Die im Interesse der Erleichterung des gegenseitigen Eisenbahnverkehrs zwischen dem Deutschen Reiche und der Österreichisch-Ungarischen Monarchie jeweilig bestehenden Vertragsbestimmungen finden auch auf die durch den gegenwärtigen Vertrag gesicherten Eisenbahnanschlüsse Anwendung.

Beide hohen vertragschliessenden Teile verpflichten sich, dahin zu wirken:

1. dass auf den den Gegenstand dises Vertrages bildenden Eisenbahnen möglichst im Anschlusse an die Züge der angrenzenden Bahnstrecken für den Personen- und Güterverkehr so viel Züge eingerichtet werden, als zur Bewältigung desselben erforderlich sind, sowie dass die sonstigen Betriebsanordnungen den lokalen Verkehrsbedürfnissen entsprechend geregelt werden;

2. dass der Einführung direkter Abfertigungen im Personen- und Güterverkehr zwischen den in Frage stehenden Eisenbahnen und den angrenzenden Bahnstrecken, falls dieselbe im Interesse des Verkehrs von beiden hohen Regierungen als wünschenswert bezeichnet wird, seitens der betriebführenden Verwaltungen der beteiligten Eisenbahnen nicht widersprochen werde;

3. dass die in Rede stehenden Eisenbahnen zur Aufnahme in die Liste der dem internationalen Uebereinkommen für den Eisenbahnfrachtverkehr unterworfenen Eisenbahnen angemeldet werden.

Artikel XV.

Der Bertiebswechsel findet auf der in Artikel I bezeichneten Eisenbahnlinie von Wallern nach Waldkirchen in dem auf bayerischem Gebiete in unmittelbarer Nähe der Grenze anzulegenden Bahnhofe Haidmühle statt.

Auf der in Artikel II behandelten Eisenbahnlinie dagegen soll, unbeschadet einer etwa zwischen den beiderseitigen Bahnverwaltungen zu treffenden Vereinbarung über die Beförderung durchgehender Personenzüge zwischen Berchtesgaden und Salzburg und umgekehrt, die auf österreichischem Gebiete gelegene, eventuell entsprechend zu verlegende und umzugestaltende Station St. Leonhard-Drachenloch als Grenz- und Wechselstation gelten.

Die Bestimmung der Betriebswechsel-Stationen für die in Artikel III genannten Bahnlinien bleibt für jede dieser Linien späterer Vereinbarung zwischen den beiden hohen Regierungen vorbehalten.

Für die Anlage und Ausrüstung der Grenz- und Wechselstation sind die in dem bezüglichen Staatsgebiete geltenden Grundsätze massgebend.

Dagegen sollen die Einrichtungen des Baues und Betriebes, die Konstruktion des Oberbaues und die Signaleinrichtungen der Strecken von der Grenze bis zu den Wechselstationen mit denjenigen Einrichtungen übereinstimmen, welche in dieser Beziehung für die jenseits der Grenze gelegene Anschlussstrecke genehmigt werden.

Artikel XVI.

Die beiden hohen Regierungen erklären ihre Zustimmung dazu, dass die Strecken von der beiderseitigen Grenze bis zu den Betriebswechsel-Stationen (Artikel XV) von der Unternehmung der fremdländischen Anschlussstrecke betrieben werden.

Bezüglich der Bedingungen, unter welchen der Unternehmung der fremdländischen Anschlussstrecke der Betrieb auf der Strecke von der Grenze bis zur Betriebswechsel-Station zu gestatten ist, bleibt einer Verständigung zwischen den beteiligten Verwaltungen vorbehalten.

Beim Mangel eines Einverständnisses haben sich die Bahnverwaltungen den nach vorgängiger Verständigung gemeinschaftlich zu treffenden Anordnungen der beiden hohen Regierungen zu fügen.

Jedenfalls soll aber die betriebführende Verwaltung seitens der die Oberaufsicht ausübenden Regierung bindend verpflichtet werden, die ordnungsmässige Instandhaltung der ihr in Betrieb gegebenen Strecke nebst allem Zubehör, einschliesslich der nach den Verwaltungsgrundsätzen der betreffenden Territorial-Regierung erforderlich werdenden Erneuerungen, auf eigene Kosten zu übernehmen und dem Eigentümer das auf die Strecke nachweislich verwendete Anlagekapital, jedoch ohne Einrechnung etwaiger Kosten der Geldbeschaffung und Kursverluste mit jährlich 4 Prozent zu verzinsen.

Die Kosten für die Anlagen und Bauten in den Wechselstationen einschliesslich der Dienst- und Wohnräume für die Eisenbahn-, Zoll-, Post-, Telegraphen- und Polizeiverwaltung in dem durch das wirkliche Bedürfnis des Verkehres der in Rede stehenden Bahn bedingten Umfange sollen seitens

der den Bahnhof mitbenützenden fremdländischen Bahnverwaltung nach Verhältnis der Mitbenützung dem Eigentümer mit 4 Prozent verzinst werden.

Nach gleichen Grundsätzen werden die Erweiterungen der ursprünglichen Bahnanlagen auf der Strecke bis zur Grenze und in der Wechselstation behandelt, welche die betreffende Territorial-Regierung im Interesse des Verkehrs für geboten erachten, oder welche die Regierung des fremden Landesgebietes für ihre im fünften Absatze bezeichneten Dienstzweige etwa in Anspruch nehmen sollte.

Artikel XVII.

Die beiden hohen Regierungen erklären ihre Zustimmung dazu, dass auf der auf österreichischem Gebiete gelegenen Strecke der im Artikel I genannten Eisenbahn von der beiderseitigen Grenze bis Reutte der Zugförderungs- und Fahrdienst für die betriebführende österreichische Unternehmung bis auf weiteres von der königlich bayerischen Staatseisenbahn-Verwaltung besorgt werde.

Desgleichen erteilen die beiden hohen Regierungen ihre Zustimmung, dass auf den Bahnstrecken von der beiderseitigen Grenze bei St. Leonhard-Drachenloch nach Berchtesgaden einerseits, nach Salzburg anderseits ein durchgehender Personenzugsverkehr eingerichtet werde.

Bezüglich der Bedingungen, unter welchen der bayerischen Staatseisenbahn-Verwaltung die Besorgung des Zugförderungs- und Fahrdienstes auf der österreichischen Bahnstrecke von der Grenze bis Reutte zu überlassen ist, sowie über die eventuelle Einrichtung eines direkten Personenzugsverkehrs zwischen Berchtesgaden und Salzburg und umgekehrt bleibt eine Verständigung zwischen den beiden Bahnverwaltungen vorbehalten.

Beim Mangel eines Einverständnisses haben sich die Bahnverwaltungen den nach vorgängiger Verständigung gemeinschaftlich zu treffenden Anordnungen der beiden hohen Regierungen zu fügen.

Für den Fall, als die vorgenannte Bahnstrecke von der beiderseitigen Grenze bis Reutte eine direkte Anschlussverbindung mit einer österreichischen Bahn erlangen sollte, behält sich die kaiserlich-königlich österreichische Regierung das Recht vor, den Betrieb dieser Bahnstrecke in vollem Umfange entweder selbst zu übernehmen oder der Unternehmung der österreichischen Anschlussbahn zu übertragen. Für diesen Fall hat der Betriebswechsel in dem auf bayerischem Gebiete anzulegenden Bahnhofe Pfronten-Steinach stattzufinden, und haben hinsichtlich der Betriebsführung auf der Strecke von der Grenze bis zur Betriebswechsel-Station sowie hinsichtlich der Mitbenützung der Betriebswechsel-Station die Anordnungen des Artikels XVI sinngemäss zur Anwendung zu gelangen.

Artikel XVIII.

Auf der Linie Reutte—Pfronten ist das bayerische Grenzzollamt in der projektierten Station Pfronten-Steinach einzurichten, woselbst auch eine Expositur des in Reutte aufzustellenden österreichischen Grenzzollamtes zu errichten ist.

Diese Grenzzollämter sind mit den den Verkehrsverhältnissen entsprechenden Abfertigungsbefugnissen zu versehen.

Die beiden hohen Regierungen erklären sich bereit, die Befugnisse der genannten Zollämter zu erweitern, sobald und soweit die Ausdehnung des Verkehrs es erfordern sollte.

Die königlich bayerische Regierung erklärt ihre Bereitwilligkeit, auf ihre Kosten zur zeitweisen Einrichtung einer Zollabfertigung und einer tierärzlichen Untersuchung in Reutte an den jährlich in Reutte stattfindenden sechs grossen Viehmärkten bayerische Zoll- und tierärztliche Organe dorthin zu entsenden.

Artikel XIX.

In Bezug auf die Bahnlinien von Wallern nach Waldkirchen und von Berchtesgaden nach St. Leonhard-Drachenloch sowie gegebenen Falles in Bezug auf die in Artikel III behandelten Bahnlinien werden die Bedingungen und Modalitäten der zollamtlichen und sonstigen Überwachung späteren Vereinbarungen zwischen den beiden hohen Regierungen unter Berücksichtigung der besonderen Anlage- und Verkehrsverhältnisse dieser Bahnlinien vorbehalten.

Artikel XX.

Die Förmlichkeiten der zollamtlichen Revision und Abfertigung des Passagiergepäcks, der ein- und ausgehenden Güter sowie der zollamtlichen Überwachung des Durchzugsverkehrs sollen seinerzeit durch beiderseitige Kommissäre noch näher verabredet werden.

Hierbei soll insbesondere auf die tunlichste Erleichterung des Durchzugsverkehrs von Scharnitz über Garmisch-Partenkirchen nach Scharnitz besonders Bedacht genommen werden.

Artikel XXI.

Die wegen Handhabung der Pass- und Fremdenpolizei im Eisenbahnverkehr schon bestehenden oder noch zu vereinbarenden Bestimmungen sollen auf die den Gegenstand dieses Vertrages bildenden Eisenbahnverbindung Anwendung finden.

Über die Amtsbefugnisse der Polizeibeamten, welche etwa von der fremdländischen Regierung auf den Grenzbahnhöfen stationiert werden sollten, bleibt eine besondere Verständigung zwischen den beiden hohen Regierungen vorbehalten.

Die Verhandlung hierüber soll mindestens drei Monate vor Inbetriebsetzung der betreffenden Eisenbahn beginnen und vor Eröffnung des Betriebes tunlichst vollständig zum Abschluss gebracht werden.

Artikel XXII.

Die Regelung des Post- und Telegraphendienstes bleibt der besonderen Verständigung zwischen den beiderseitigen Post- und Telegraphen-Verwaltungen vorbehalten.

Im Falle der Erbauung oder des Betriebes einer Anschlusslinie auf fremdländischem Gebiete hat die betriebführende Verwaltung alle Verpflichtungen uud Leistungen zu übernehmen, welche ihr im Interesse der Post- und Telegraphenanstalt von der für das betreffende Gebiet zuständigen Staatsverwaltung auferlegt werden.

Artikel XXIII.

Die beiden hohen Regierungen werden den Betrieb der auf ihrem Gebiete gelegenen Strecken der in den Artikeln I, II und III behandelten Bahnlinien, soweit und solange derselbe von einer fremdländischen Eisenbahnverwaltung geführt wird, mit keinen anderen oder höheren Abgaben belegen als denjenigen, welche den Bahnbetrieb ausländischer Eisenbahnverwaltungen im allgemeinen treffen.

Artikel XXIV.

Sollte späterhin eine Änderung in den Eigentumsverhältnissen der den Gegenstand dieses Vertrages bildenden Strecken, soweit dieselben durch Privatunternehmungen ausgeführt werden, infolge Einlösung oder Heimfalles derselben eintreten, oder die betreffende Territorial-Regierung den Betrieb der gedachten Strecken übernehmen, ohne das Eigentum derselben zu erwerben, so bleiben dessenungeachtet die Bestimmungen des gegenwärtigen Vertrages unverändert in Kraft.

Artikel XXV.

Gegenwärtiger Vertrag soll beiderseitig zur Allerhöchsten Genehmigung vorgelegt und die Auswechselung der darüber auszufertigenden Ratifikations-Urkunden baldtunlichst in München bewirkt werden.

Zur Beglaubigung dessen haben die Bevollmächtigten denselben in zwei Ausfertigungen unterzeichnet und besiegelt.

So geschehen zu München, am 22. November 1904.

Clemens Frh. v. Podewils.
Theodor Gf. Zichy.

93.

FRANCE, CHINE.

Convention pour le raccordement des lignes télégraphiques du Tonkin avec les lignes télégraphiques Chinoises; signée à Tchéfou, le 1er décembre 1888.

Le Gouvernement de la République Française et le Gouvernement de l'Empire Chinois, désireux de faciliter la transmission des correspondances télégraphiques internationales, ont résolu de conclure une Convention ayant pour objet le raccordement des lignes télégraphiques du Tonkin avec les lignes télégraphiques Chinoises, et ont, en conséquence, nommé pour négocier et signer la dite Convention des Commissaires munis de pouvoirs spéciaux, savoir:

Le Gouvernement de la République Française, M. Paul Ristelhueber, Consul de première classe, résidant à Tien-tsin, Chevalier de l'Ordre National de la Légion d'Honneur, Commandeur de l'Ordre du Double Dragon de Chine, &c.; et

Le Gouvernement de l'Empire Chinois, Cheng-Shuen-Houi, Fonctionnaire du rang de Trésorier Provincial, Intendant de Circuit pour les Préfectures de Teng-tchéou, Lei-tchéou, et Tchin-tchéou, avec Juridiction Militaire, Surintendant des Douanes Maritimes à Tchéfou, Directeur-Général de l'Administration des Télégraphes Chinois, Directeur-Général de la Compagnie Chinoise de Navigation à vapeur, &c.;

Lesquels, après s'être communiqué leur pleins pouvoirs, qui ont été reconnus en bonne et due forme, sont convenus des stipulations suivantes:

Art. I. Les lignes télégraphiques Françaises et les lignes télégraphiques Chinoises seront reliées à la frontière du Tonkin et de la Chine, dans le but de transmettre de la manière ci-après indiquée les correspondances internationales.

II. Les raccordements seront établis:

a) Entre la station Française de Dongdang, au Tonkin, et la station Chinoise de Tcheun-Nan-Kouan, dans la Province de Kouang-si;

b) Entre la station Française de Monkai, au Tonkin, et la station Chinoise de Tong-hing, dans la Province de Kouang-tong;

c) Entre la station Française de Laokai, au Tonkin, et la station Chinoise de Mongtze, dans la Province du Yunnan.

Aussitôt après que la présente Convention aura reçu l'approbation du Gouvernement Chinois, il sera procédé au raccordement entre Dongdang et Tcheun-Nan-Kouan.

Les raccordements entre Monkai et Tong-hing d'une part, et Laokai et Mongtze d'autre part, seront établis dans le délai de dix-huit mois après que la dite approbation aura été donnée.

III. L'Administration des Télégraphes Français et l'Administration des Télégraphes Chinois établiront, maintiendront en bon état, et desserviront les lignes de raccordement. Chacune des Parties Contractantes prendra à sa charge la part des dépenses qui seront faites pour ces différents objets sur son propre territoire, et veillera à ce que les limites de chaque territoire soient scrupuleusement respectées.

Les stations mentionnées à l'Article précédent devront assurer la transmission des télégrammes en se servant des fils directs des lignes de raccordement.

IV. Les prescriptions stipulées pour le régime extra-Européen dans le Règlement de Service de la Convention Télégraphique Internationale seront observées en ce qui concerne le traitement technique des télégrammes transmis par les lignes terrestres de raccordement. Toutefois, pour le compte des mots des télégrammes échangés par les lignes terrestres de raccordement entre la Chine d'une part, et d'autre part le Tonkin, l'Annam, la Cochinchine, et le Cambodge, on appliquera les règles du régime Européen stipulées dans le Règlement de Service de la Convention Télégraphique Internationale.

V. Chacune des Parties Contractantes fixe les taxes à percevoir pour la transmission des correspondances par ses lignes respectives, jusqu'à la frontière de son territoire. Toutefois, il est entendu que, pendant toute la durée de la présente Convention, les taxes fixées dans l'Article VI ne pourront être augmentées, et que, pendant la même période, chacune des Parties Contractantes aura la faculté de réduire ses propres taxes, si elle le juge convenable.

VI. Les taxes à percevoir par mot pour les correspondances échangées par les lignes de raccordement mentionnées à l'Article II sont fixées ainsi qu'il suit:

Taxes perçues par l'Administration des Télégraphes Français.

A. Taxes Terminales.

Pour toutes les correspondances échangées par les voies terrestres de la frontière Chinoise avec

	Fr. c.
1. Le Tonkin	0 15
2. L'Annam	0 30
3. La Cochinchine et le Cambodge	0 45

B. Taxes de Transit.

Pour toutes les correspondances échangées entre la frontière Chinoise et

	Fr. c.
1. Les autres frontières par la voie terrestre	0 50
2. Les câbles atterrissant à	
a) Haïphong	0 20
b) Hué	0 30
c) Saïgon	0 50

Taxes perçues par l'Administration des Télégraphes Chinois.

A. Taxes Terminales.

1. Pour les correspondances échangées par la frontière du Tonkin entre le Tonkin, l'Annam, la Cochinchine, le Cambodge, et Siam d'une part, et d'autre part

	Fr. c.
a) Toutes les stations des provinces du Kouang-tong, du Kouang-si, et du Yunnan	0 75
b) Toutes les autres stations situées sur le Yangtze ou au sud du Yangtze	1 25
c) Toutes les stations situées au nord du Yangtze, sauf celles qui se trouvent en Corée	2 25
d) Les stations Chinoises en Corée.	2 50

2. Pour les correspondances échangées par la frontière du Tonkin entre la Chine et l'Europe ou les pays situés au delà de l'Europe 5 fr. 50 c.

3. Pour les correspondances échangées par la frontière du Tonkin entre les autres pays et

	Fr. c.
a) Toutes les stations des provinces du Kouang-tong, du Kouang-si, et du Yunnan	1 00
b) Toutes les autres stations situées sur le Yangtze ou au sud de Yangtze	1 50
c) Toutes les stations au nord du Yangtze, sauf celles qui se trouvent en Corée	2 25
d) Les stations Chinoises en Corée	2 50

B. Taxes de Transit.

1. Pour les correspondances échangées par la frontière du Tonkin entre l'Europe et les pays au delà d'une part, et d'autre part toutes les autres frontières de la Chine, 5 f. 50 c.

2. Pour toutes les correspondances échangées par la frontière du Tonkin et

	Fr. c.
a) Hong-Kong	0 75
b) Amoy, Foutcheou, et Shanghaï	1 25
c) Toutes les autres frontières	2 50

VII. Une liste donnant les noms des stations Françaises et Chinoises dont il est parlé à l'Article précédent est annexée à la présente Convention.

VIII. Lorsque les expéditeurs des télégrammes n'auront pas expressément indiqué la voie par laquelle ils désirent que leur télégrammes soient transmis, il est entendu qu'à tarif inférieur toutes les correspondances, et à tarif égal la moitié au moins des correspondances, devront être expédiées par les lignes de raccordement mentionnées à l'Article II de la présente Convention.

IX. Le compte des correspondances transmises sera arrêté chaque jour et communiqué par le télégraphe de station à station.

Le règlement des comptes aura lieu à la fin de chaque mois. Le solde résultant des comptes sera payé à l'Administration des Télégraphes

Chinois à Shanghaï, dans les dix jours qui suivront le mois auquel ce solde se rapporte.

Les télégrammes échangés au sujet du réglement des comptes seront considérés comme télégrammes de service.

Le mois sera calculé suivant le calendrier Européen.

X. Les payements seront effectués, en piastres Mexicaines au taux de 26 cents de piastre pour 1 fr.

XI. Aussitôt après l'échange des signatures, la présente Convention sera soumise à l'approbation du Gouvernement Chinois; elle sera mise à exécution dès que cette approbation aura été donnée, et restera en vigueur pendant quinze années. Au delà de cette période elle continuera à être obligatoire tant que l'une des Parties Contractantes n'aura pas annoncé, six mois à l'avance, l'intention, soit d'y apporter des modifications, soit d'en faire cesser les effets.

Toutefois, il est entendu que dans le cas où, avant l'expiration de la présente Convention, des modifications seraient apportées dans les arrangements qui lient actuellement l'administration Chinoise aux Compagnies Great Northern et Eastern Extension, en ce qui concerne les taxes terminales et de transit pour les correspondances à destination ou provenant d'Europe et des pays au delà, l'Administration des Télégraphes Français obtiendrait de droit pour les dites taxes toutes les réductions qui seraient faites à la suite de ces modifications.

XII. La ligne de raccordement entre la station Française de Laokai, au Tonkin, et la station Chinoise de Mongtze, dans la Province du Yunnan, ne devant être établie que dans le délai de dix-huit mois, il est entendu que les correspondances télégraphiques à distination ou provenant du Yunnan auront à acquitter, jusqu'au moment du raccordement, les taxes terminales de 1 fr. 25 c. et de 1 fr. 50 c. par mot stipulées dans les paragraphes A, 1 (b), et A, 3 (b), de l'Article VI de la présente Convention.

Fait à Tchéfou en huit exemplaires, dont quatre en langue Française et quatre en langue Chinoise, le 1er Décembre, 1888, correspondant au 28e jour de la 10e lune de la 14e année de Kouang-Siu.

(L. S.) *P. Ristelhueber.*

(L. S.) *Cheng-Shuen-Houl.*

94.

RUSSIE, PERSE.

Convention pour l'échange de territoires; signée à Tehéran, le 27 mai/8 juin 1893.*)

State Papers. V. LXXXVI.

His Imperial Majesty the Emperor and Autocrat of all the Russias and His Majesty the Shah of Persia, being desirous, with a view to strengthening the ties of good understanding subsisting between them, of settling certain questions relative to the frontier-line between each country, have appointed as their Plenipotentiaries for concluding a Agreement on the points at issue the following, that is to say:

His Imperial Majesty the Emperor and Autocrat of all the Russias, Privy Councillor Eugène Boutzoff, his Envoy Extraordinary and Minister Plenipotentiary at the Court of His Majesty the Shah; and

His Majesty the Shah of Persia, his Sadrazam Mizra Ali Azghar Khan, Amin-ous-Sultan.

The said Plenipotentiaries concluded and signed the following Articles:

Art. I. His Majesty the Shah of Persia, for himself and for his heirs, cedes to His Imperial Majesty the Emperor and Autocrat of all the Russias the village of Firuzé and the entire district between the frontier-line established in 1881 and the line extending from the Kenaré Mountains to the summit of the Bir Range.

By the present Article the description of the frontier-line given in Article I of the Convention of the $\frac{9\text{th}}{21\text{st}}$ December, 1881, is cancelled in so far as it relates to this district.

All the remaining Articles of the Convention of 1881 retain their full force.

II. In exchange for the cession of territory to Russia mentioned in Article I, His Imperial Majesty the Emperor and Autocrat of all the Russias, for himself and for his heirs, cedes to His Majesty the Shah of Persia:

1. The land along the right bank of the River Araxes, opposite the former fortifications of Abbas Abad, which passed over to Russia by viertue of Article IV of the Treaty concluded in Turkmanchai on the $\frac{10\text{th}}{22\text{nd}}$ February 1828.

2. The village of Hissar, with the tract of territory contained between the present frontier, and a line which shall run from the intersection of the said frontier with the Hissaro-Chilgan Canal along the right bank of the canal, shall skirt the east side of the village of Hissar, and, on

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*) Ratifiée par l'Empereur de Russie, le 18/30 juillet 1893.

intersecting the canal, shall proceed to the south-west up to the ravine, which is 2 versts from the Hissar mill; after which the frontier-line shall run south to the point of intersection of the existing frontier with the Rudbar River (Zanghenanlichai).

III. In consequence of the cession to Persia of the Abbas Abad district, the description of the frontier relating to that district in Article IV of the Turkmanchai Treaty is cancelled, and in its place it is determined that the frontier-line between the two countries shall run along the course of the River Araxes from Sherur to the Edibuluk ford, and further as defined in the Article above referred to.

All the other Articles of the Turkmanchai Treaty remain in full force.

IV. The accurate delimitation on the spot of the frontier of the Firuzé and of the Hissar districts, and the fixing of frontier marks, shall be carried out by Commissioners appointed by both Governments for this purpose, who shall also transfer and take over the districts named.

Nevertheless, the cession of the three districts mentioned, together with the right of immediately undertaking their administration, shall be considered complete and unconditional from the time of the exchange of the ratifications of the present Convention.

V. The frontier-line between the Russian and Persian possessions eastwards from the point defined in Article I of the Convention concluded on the 9th December, 1881, in fixed as follows:

From Baba Durmaz the frontier-line follows the crest of the Ziriku Range south-eastwards towards the village of Khairabad, but before reaching the latter it runs along the left side of the Durunghiar (Huriz) Valley. Crossing over to the right bank of the River Durunghiar northwards from the village of Kale-Mir, it passes between the villages of Koklan (Kolkhan) and Shor Kale; the frontier-line then runs nordhwards, skirts Lutfabad on the west and north, and the village of Kuran on the south, then turns south-eastwards to the village of Shilghan, leaving the village Tchukur Agil to the east, and skirting Shilghan on the north and east. From hence the frontier runs southwards between the villages of Shilghan and Maghenli to Kurghan-Khoshatepé; skirting the village of Hissar from the east, it first follows the right bank of the Hissaro-Shilghan Canal, and then, crossing over to the left bank of the same, runs in a south-westerly direction to the great ravine, from whence it follows a southward course up to the River Rudbar (Zanghenanli-chai). Crossing this river half a farsakh above the village of Kozghan, the frontier-line takes a south-easterly direction, passing to the south of all the villages (Kale) of Atek, and continues up to the rising of the mountains in the valley of Tedjen, then extending eastwards to the bed of the River Tedjen, which it joins somewhat to the south of the ruins of the fortress Koushut Kale. From this point the bed of the River Tedjen will serve as a boundary-line to the beginning of the Afghan possessions at Zulfagar.

Both Governments shall appoint Commissioners for accurately tracing the frontier-lines on the spot, and for erecting proper boundary marks after the transfer and entrance into possession of the said districts of Firuzé and Hissar.

VI. The Russian and Persian Governments shall have the right, during the term of one year after the exchange of the ratifications of the present Convention, to resettle the inhabitants of each of the mutually-ceded villages of Firuzé and Hissar within the confines of their own possessions.

Both Governments engage not to erect fortifications in the territories mutually ceded by the present Convention, and not to introduce Turkoman settlers into the said territories of Firuzé and Hissar.

VII. The Agreement concluded between the Representatives of the two Governments in 1884 relative to the distribution of land and water among the frontier inhabitants on either side is hereby confirmed, with the exception of those stipulations of the said Agreement which, referring to the mutually-ceded territories of Firuzé and Hissar, may require modification.

VIII. The present Convention shall be ratified by His Imperial Majesty the Emperor and Autocrat of all the Russias and His Majesty the Shah of Persia, and the said ratifications shall be exchanged in Tehran within the space of four months from the day of signature, or earlier if possible.

In witness whereof the joint Plenipotentiaries have signed the present Convention, affixing the seals of their arms thereunto.

Done in duplicate, in Tehran, the $\frac{\text{27th May}}{\text{8th June}}$, 1893, and the 23rd Zilkadé, 1310, according to the Mussulman reckoning..

(L. S.) *Eugène Boutzoff.*

In fulfilment of the written order of His Majesty the Shah this present Convention is signed by Sadrazam Mirza Ali Azghar Khan Amin-ous-Sultan.

(L. S.)

95.

TUNISIE.

Décret tunisien concernant les pêcheries sur la côte de Tunisie; fait à Tunis, le 11 janvier 1895.

Nous, Ali Pacha Bey, Possesseur du Royaume de Tunis;

Vu le Décret du 16 juin, 1892, en ce qui concerne, notamment, l'obligation imposée aux pêcheurs de transporter au marché, pour être vendus aux enchères, les éponges noires et les poulpes:

Considérant qu'il paraît utile, dans l'intérêt des pêcheurs et du Trésor, d'apporter à l'état de choses existant les modifications que l'expérience a suggérées;

Avons pris le Décret suivant:

Art. 1er. Les Articles 5, 6, 7, 10, 13, et 16 du Décret du 16 juin, 1892, susvisé sont abrogés et remplacés par les dispositions suivantes:

Art. 5. Quiconque veut exercer la pêche noire, c'est-à-dire, la pêche des éponges que l'on débarque à l'état brut, ou à la fois la pêche noire et la pêche des poulpes, doit, au préalable, se munir d'une patente qui sera délivrée moyennant le payement des taxes ci-après:

Par barque pêchant au trident et n'ayant pas un équipage supérieur à trois hommes, 75 fr.; payables 45 fr. au moment de la délivrance de la patente et le surplus dans les trois mois suivants.

Par homme d'équipage en sus de trois, 20 fr.; payables 10 fr. au moment de la délivrance de la patente, et le surplus dans les trois mois suivants.

Toutefois les patentes demandées postérieurement au 30 septembre ne seront délivrées que moyennant le payement immédiat de l'intégralité de la taxe.

Art. 6. Dans aucun cas les bateaux inscrits pour la pêche exclusive des poulpes ne pourront compter comme annexes de bateaux inscrits pour la pêche noire, et les bateaux de l'une ou l'autre de ces catégories ne pourront dans aucun cas compter comme annexes de bateaux inscrits pour la pêche blanche.

Art. 7. Quiconque veut exercer la pêche des poulpes avec ou sans embarcation, doit au préalable se munir d'une patente qui sera délivrée moyennant le payement des taxes ci-après:

Par barque n'ayant pas un équipage supérieur à trois hommes, 30 fr.; payables 20 fr. au moment de la délivrance de la patente et le surplus dans les trois mois suivants.

Par homme d'équipage en sus de trois, 10 fr.; payables 5 fr. au moment de la délivrance de la patente et le surplus dans les trois mois suivants.

Par homme exerçant la pêche à pied, 10 fr.; payables en entier au moment de la délivrance de la patente.

Toutefois, les patentes demandées postérieurement au 30 septembre ne seront délivrées que moyennant le payement immédiat de l'intégralité de la taxe.

Art. 10. Les éponges blanches, les éponges noires et les poulpes secs ou frais devront être intégralement apportés dans l'un des ports ouverts au commerce.

Cette disposition n'est pas applicable aux poulpes pris par les pêcheurs à pied.

A leur débarquement les éponges et les poulpes seront présentés au préposé à la police de la navigation et des pêches, qui enregistrera leur poids ou leur nombre.

Cette formalité accomplie, les pêcheurs disposeront à leur gré du produit de leur pêche, par vente ou autrement.

Art. 13. Toute association secrète ou manœuvre entre les marchands d'éponges ou autres, tendant à nuire aux enchères, à les troubler ou à obtenir les éponges et poulpes à plus bas prix, donnera lieu à l'application des peines portées par l'Article 412 du Code Pénal Français, indépendamment de tous dommages intérêts.

Art. 16. Sera puni d'une amende de 200 à 2,000 fr. et d'un emprisonnement de six jours à un mois ou de l'une de ces deux peines seulement, quiconque se livrera en barque à la pêche des éponges ou des poulpes sans être muni d'une patente délivrée dans les conditions indiquées aux Articles 2, 5, et 7 du présent Décret.

Si la pêche a eu lieu à la drague ou au scaphandre, le minimum de l'amende sera de 500 fr., et il pourra être prononcé un emprisonnement de quinze jours à trois mois.

Quiconque se livrera à la pêche des poulpes à pied sans être muni de la patente spéciale à cette pêche sera puni d'une amende de 20 à 50 fr. et d'un emprisonnement de cinq à dix jours, ou de l'une de ces deux peines seulement.

Art. 2. Le Directeur-Général des Travaux Publics et le Directeur des Finances sont chargés, chacun en ce qui le concerne, d'assurer l'exécution du présent Décret, qui entrera en vigueur à compter du 1er juin, 1895.

Vu pour promulgation et mise à exécution.

Tunis, le 11 janvier, 1895.

René Millet,

Ministre Plénipotentiaire, Résident Général de la République Française à Tunis.

96.

GRANDE-BRETAGNE, SUISSE.

Convention relative à un Complément de l'Article XVIII du Traité d'extradition du 26 novembre 1880; signée à Londres, le 29 juin 1904.*)

Treaty Series. No. 16. 1905.

Convention supplementing Article XVIII of the Extradition Treaty concluded between Great Britain and Switzerland, November 26, 1880.**)

The Government of His Majesty the King of the United Kingdom of Great Britain and Ireland and the Federal Council of the Swiss Confederation, having deemed it necessary to extend, so far as regards the relations of Switzerland with the British Colonies and foreign possessions, the periods of thirty days and two months respectively fixed by Article III, paragraph 3, and Article VIII of the Treaty concluded on the 26th November, 1880, between Her late Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, &c., and the Swiss Federal Council respecting the extradition of persons accused or condemned, the Undersigned, duly authorized to that effect by their respective Governments, have agreed as follows:

The following stipulation is added to the first paragraph of Article XVIII of the Treaty of Extradition:

„Nevertheless, so far as regards the relations of Switzerland with

Convention relative à un Complément de l'Article XVIII du Traité d'Extradition conclu entre la Grande-Bretagne et la Suisse, le 26 novembre, 1880.**)

Le Gouvernement de Sa Majesté le Roi du Royaume-Uni de Grande-Bretagne et d'Irlande et le Conseil Fédéral de la Confédération Suisse, ayant jugé nécessaire de prolonger les délais de trente jours, respectivement de deux mois, prévus, pour les rapports de la Suisse avec les Colonies et possessions étrangères de la Grande-Bretagne, par l'Article III, alinéa 3, et par l'Article VIII du Traité conclu le 26 novembre 1880 entre feu Sa Majesté la Reine du Royaume-Uni de Grande-Bretagne et d'Irlande Impératrice des Indes, &c., et le Conseil Fédéral Suisse concernant l'extradition de personnes accusées ou condamnées, les Soussignés, dûment autorisés à cet effet par leurs Gouvernements respectifs, sont convenus de ce qui suit:

Est ajoutée au premier alinéa de l'Article XVIII du Traité d'Extradition la disposition suivante:

„Toutefois, dans les rapports de la Suisse avec ces Colonies et posses-

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*) Les ratifications ont été échangées à Londres, le 29 mars 1905.
) V. **N. R. G. 2e s. VIII, 673.

these Colonies and foreign possessions, the period of time fixed by Article III, paragraph 3, within which the requisition for extradition is to be made through the diplomatic channell, shall be six weeks; and that provided by Article VIII for the production of proofs sufficient to warrant the extradition shall be three calendar months."

The present Convention shall come into force from the date when the ratifications shall be exchanged. It shall have the same force and duration as the Treaty of Extradition of the 26th November, 1880, to which it relates.

It shall be ratified, and the ratifications shall be exchanged at London as soon as possible.

In witness whereof the Undersigned have signed the present Convention, and have affixed their seals thereto.

Done at London, in duplicate, the 29th day of June, 1904.

(L. S.) *Lansdowne.*

sions étrangères, le délai prévu par l'Article III, alinéa 3, pour la demande d'extradition par voie diplomatique, sera de six semaines; et celui prévu par l'Article VIII pour la production des preuves permettant d'accorder l'extradition, sera de trois mois de calendrier."

La présente Convention entrera en vigueur dès que les ratifications en auront été échangées. Elle aura la même force et la même durée que le Traité d'Extradition du 26 novembre 1880 auquel elle se réfère.

Elle sera ratifiée, et les instruments de ratifications en seront échangés à Londres aussitôt que possible.

En foi de quoi les Soussignés ont apposé leurs signatures et leurs sceaux à la présente Convention.

Fait à Londres, en double expédition, le 29 juin, 1904.

(L. S.) *Carlin.*

97.

MEXIQUE, GUATÉMALA.

Traité d'extradition; signé à Guatémala, le 19 mai 1894.*)

His Excellency the President of the United States of Mexico and his Excellency the President of Guatemala, having agreed to provide for the extradition of criminals by means of a Convention, have named their Plenipotentiaries for that purpose, that is to say:

His Excellency the President of the United States of Mexico, Señor Licenciado Don José F. Godoy, his Chargé d'Affaires ad interim in Guatemala;

*) Les ratifications ont été échangées à Guatémala, le 2 septembre 1895.

His Excellency the President of Guatemala, Señor Doctor Don Ramon A. Salazar, Secretary of State for Foreign Affairs;

Who, after having exchanged their full powers, have agreed upon the following Articles:

Art. I. The Mexican Government and that of Guatemala engage to deliver up to each other, at the request which one of the two Governments may make to the other, with the sole exception of its own subjects, those persons accused or convicted by the competent authorities of the country in which the offence may be committed, as authors or accomplices of the crimes and offences enumerated in Article II of this Convention, who shall be found within the territory of the other Contracting State. Nervertheless, when the crime or offence which may give rise to the requisition for extradition shall have been committed without the territory of the two Contracting Parties, such requisition may be acted upon, provided that the laws of the country applied to authorize the prosecution of such offences committed without its territory.

II. The crimes and offences comprehended by the preceding Article are

1. Assassination.
2. Poisoning.
3. Parricide.
4. Infanticide.
5. Manslaughter.
6. Violation and rape.
7. Arson.
8. Alteration or falsification of documents of public credit, bank notes or public or private securities, issuing or bringing into circulation of such counterfeit or falsified documents, bank notes, or securities, falsification by means of manuscript or of telegraphic messages. and making use of such counterfeit, manufactured, or falsified messages, documents of credit, bank notes, or securities.
9. Making false money, including counterfeiting and alteration; issue and bringing into circulation of counterfeit or altered money; as also fraud in the selection of samples for the trial of the fineness and weight of coins.
10. Perjury and false declarations of experts or interpreters.
11. Attempts against the liberty of the subject and violation of domicile, committed by private individuals.
12. Robbery, extortion, fraud, exactions, or misappropriation, committed by public functionaries.
13. Fraudulent bankruptcies and frauds connected with failures.
14. Associations of criminals.
15. Threats, of acts punishable by the criminal laws, against the person or property; offers or proposals to commit a crime or to take part in it, or acceptance of such offers or proposals.
16. Abortion.
17. Bigamy.

18. Stealing, receiving concealment, substitution, or

19. Exposing or abandoning children.

20. Kidnapping.

21. Indecent assault, with violence.

22. Indecent assault, committed without violence on the person, or with the aid of the person, of a child of either sex under 14 years of age.

23. Attempts against morals, inciting, aiding or abetting, habitually, for the gratification of the passions of third parties, the licentiousness or corruption of minors of either sex.

24. Wilful and premeditated assault and wounding, whether occasioning death or incurable injury, or permanent incapacity for work, or resulting in serious mutilation, or the amputation, or the loss of the use of a member, or blindness or loss of the complete use of an organ.

25. Abuse of confidence and imposition.

26. Subornation of witnesses, experts, or interpreters.

27. Perjury.

28. Alteration or falsification of seals, stamps, punches, or marks; use of counterfeit or falsified seals, stamps, punches, or marks, and improper use of true seals, stamps, punches, transport coupons, postal seals, and marks.

29. Corruption of public fonctionaries.

30. Destruction of a railway line, interference with the running of trains, with the object of occasioning either the death or the injury of the passengers.

31. Destruction of steam-engine constructions, or telegraphic apparatus.

32. Destruction or damaging of sepulchres, monuments, objects of art, deeds, documents, registers, and other papers.

33. Destruction, damaging, or injury of goods, merchandize, and other movable property.

34. Destruction or devastation of crops, plantations, trees, or grafts.

35. Destruction of agricultural implements, and destruction or poisoning of cattle and other animals.

36. Opposition to the making or execution of public works.

37. Barratry and piracy, comprising both the seizing of a vessel by persons belonging to its crew, by means of fraud or violence towards the captain, or whoever may represent him; and the abandoning of the vessel by the captain, except in those cases provided for by the law.

38. Attack on or resistance to the captain by the crew of a vessel, accompanied by acts of violence by more than one-third of the crew, refusal to obey the orders of the captain or mate, for the saving of the ship or cargo, with blows and wounding plot against the safety, liberty, or authority of the captain.

39. Receiving of articles acquired by means of any of the crimes or offences specified in the present Convention.

Attempts to commit the foregoing, when punishable according to the laws of the two contracting countries, are comprehended in the above-mentioned provisions. In all cases, extradition shall only take place for

criminal acts which may be punishable in the country applied to by a penalty of not less than one year's imprisonment.

III. The requisition for extradition shall always be made through the diplomatic channel.

IV. Extradition shall be granted by virtue of the presentation, either of the original or certified copy of the decision or sentence of condemnation, or of the warrant of arrest, or of any other order having the same force, provided that it contains an exact description of the act for which it may have been issued. These documents shall be accompanied by a copy of the text of the Law applicable to the alleged offence, and, if possible, by the record of the individual claimed.

V. In urgent cases the provisional arrest shall be effected on the receipt of notice, sent by post or telegraph, of the existence of a warrant of arrest; on condition, nervertheless, that this notice be given in due form, through the diplomatic channel, to the Minister of Foreign Affairs of the country applied to. The provisional arrest shall take place in the manner and according to the regulations established by the laws of the Government applied to; and shall cease to be effective if, at the expiration of three months reckoned from the time it was effected, the accused be not shown one of the documents referred to in Article IV of the present Convention.

VI. The extradition shall not take place if it is applied for on account of an offence for which the person claimed has already been convicted, declared innocent or acquitted in the country of the Government applied to.

If the person should be proceeded against or convicted in the country in which he is found, his extradition shall be deferred until the abandonment of the prosecution, the declaration of his innocence or acquittal, or the time when he has served his sentence.

In the event of his being prosecuted or detained in the same country on account of liabilities contracted with private individuals, his extradition shall take place, notwithstanding the injured parties being at liberty to enforce their rights before the competent authority.

VII. When the same person is claimed at the same time by several States, the State applied to is at liberty to decide to which country he shall be handed over.

VIII. A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if the President of the nation where he is found believes that, although extradition is applied for in respect to an ordinary offence, the real object is to punish a political offence, in such case the President is not obliged to state the reasons for his refusal.

Attempts against the person of the Head of a foreign State or against a member of his family, when such attempts are of the nature of homicide, assassination, or poisoning, shall not be considered as political offences or as acts in the nature of such offences.

IX. The person surrendered can in no case be prosecuted or punished in the State in which the extradition has been granted, nor be handed over

to a third State, for any crime or offence not provided for in the present Convention and previous to his extradition, until he has had in either case the opportunity of leaving the before-mentioned country during three months after his trial, or, in case of conviction, after having served his sentence or having been pardoned.

Neither can he be prosecuted or punished on account of a crime or offence provided for in the present Convention and previous to his extradition, but distinct from that which caused the latter, except with the consent of the Government that granted it, which may, if it thinks proper, require the production of one of the documents mentioned in Article IV of the present Convention. The consent of this Government shall be equally necessary to permit the extradition of the accused to a third country. Nevertheless, such consent shall not be necessary when the accused of his own accord asks to be tried or to serve his sentence, or when he has not, within the period above mentioned, left the territory of the country to which he was handed over.

X. Extradition shall be refused if, in accordance with the laws of the country in which the accused is found, exemption from punishment or prosecution is acquired from lapse of time, to be reckoned from the date of prosecution or conviction.

XI. When grounds exist for granting extradition, all articles seized which might serve to prove the crime or offence, as well as the stolen goods, shall, according to the judgment of the competent authority, be handed over to the demanding State, both when extradition is effected, the accused being arrested, and when it is inpossible to effect the same, through the fresh escape or death of the prisoner. This delivery shall also comprise any articles the accused may have hidden or deposited in the country and which are subsequently discovered.

The rights of third parties, not implicated in the prosecution, who may have acquired any articles mentioned in the present Article, shall not be affected.

XII. The expenses incurred in the arrest, detention, custody, food, and travelling expenses of the person whose extradition is granted, as also the cost of transport of the objects mentioned in the preceding Article, shall be borne by the Government applying for the extradition.

XIII. It is formally stipulated that the extradition, by way of transit through the respective territories of the Contracting States, of a person who does not belong to the country through which he is passing, shall be granted on the mere presentation of the original or a certified copy of one one of the documents mentioned in Article IV above quoated, provided that the act which forms the basis for the extradition is comprised in the present Convention, and is not included in the provisions of Articles VIII and IX.

XIV. When in the prosecution of a non-political criminal case one of the Governments considers the examination of witnesses residing in the other State to be necessary, it shall send a request to that effect through

the diplomatic channel; and the competent authorities shall carry out the same according to the laws of the country in which the examination of witnesses is held. Both Governments renounce all claim having for object the reimbursement of expenses resulting from the fulfilment of such requests, except in the case of the examination of experts in criminal, commercial, or medical-legal cases, which may require several days to carry out.

XV. When in a non-political criminal case the notification of any proceedings or of a sentence issued by the authority of one of the contracting countries has to be made to a person residing in the other country, the document forwarded through the diplomatic channel shall be notified to him personally by direction of the Public Prosecutor's office of his place residence, through the compet entauthority, and the original indorsed with a duly legalized Minute of such notification shall be returned through the same channel to the demanding Government.

XVI. When in a non-political criminal case the personal appearance of a witness is needed, the Government of the country where the latter is residing shall request him to appear where he is summoned. If the witness consents to proceed, he shall be at once furnished with the passport that may be necessary, and his travelling and living expenses shall be given to him, according to the current tariffs and regulations, by the country in which the examination is to take place. No witness of whatsoever nationality who, summoned by one of the two countries, shall voluntarily appear before the Courts of the other, can be prosecuted or arrested for previous criminal or correctional acts or convictions, nor for alleged complicity in the acts which form the subject of the case in which he figures as witness.

When, in any non-political criminal case commenced in either of the two countries, the presentation of proof or judicial documents is considered expedient, the request for the same made through the diplomatic channel shall be complied with, except where special considerations prevent it, on condition of the return of such documents.

The Contracting Governments renounce all claim for all expenses occasioned within the limits of their respective territories for the dispatch and return of proofs and documents.

XVII. The two Governments oblige themselves to communicate reciprocally to each other the convictions for crimes and offences of all kinds which may be given by the Courts of one State against the citizens of the other. Such communications shall be effected by means of the dispatch, through the diplomatic channel, of a bulletin or an extract of the sentence pronounced the Government of the country to which the criminal belongs. Each of the two Governments shall give the necessary instructions to the competent authorities on this point.

XVIII. The present Convention shall be for five years, counted from the date of the exchange of the ratifications; it shall come into force three months after the date of such exchange of ratifications, and shall remain in

force until one year from the day on which one of the two Governments may declare its wish to abrogate it.

It shall be ratified, and the ratifications exchanged, as soon as possible, in the city of Guatemala.

In witness whereof the respective Plenipotentiaries have signed and set their respective seals.

Done in the city of Guatemala, in two originals, the 19th day of May, 1894.

(L. S.) *José F. Godoy.*
(L. S.) *Ramon A. Salazar.*

98.

CUBA, SUISSE.

Accession du Gouvernement cubain aux arrangements signés à Madrid le 14 avril 1891*) concernant l'enregistrement international des marques de fabrique et dont le second a été complété, par un Acte additionnel; signé à Bruxelles, le 14 décembre 1900;*) faite à Londres le 1er (9) décembre 1904.

Treaty Series. No. 1. 1905.

M. de Salis to the Marquess of Lansdowne. — (Received December 10.)

Légation de Suisse, à Londres, le 1er (9) décembre 1904.

M. le Marquis,

Sur l'ordre de mon Gouvernement, j'ai l'honneur de faire savoir à votre Seigneurie que le Ministre d'Etat et de la Justice de la République Cubaine a notifié au Conseil Fédéral, en date du 7 novembre dernier, l'accession de son Gouvernement aux Arrangements concernant:

1. La répression des fausses indications de provenance; et

2. L'enregistrement international des marques de fabriques et de commerce;

Arrangements signés à Madrid le 14 avril 1891 et dont le second a été complété par un Acte Additionnel signé à Bruxelles le 14 décembre 1900.

Aucune date spéciale n'ayant été indiquée pour l'entrée en vigueur des deux Arrangements précités dans les rapports entre Cuba et ceux des autres États qui ont adhéré à ces Actes, il y a lieu d'appliquer par analogie les dispositions de l'Article XVI de la Convention d'Union, aux

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*) V. **N. R. G.** 2e s. XXII p. 208 et XXX p. 475.

termes duquel celle-ci produit ses effets un mois après la notification faite par le Gouvernement Suisse à ceux des autres États Contractants. Il en résulte que les deux Actes en question entreront en vigueur, en ce qui concerne Cuba, le 1er janvier prochain.

Il a été, en même temps, porté à la connaissance du Conseil Fédéral que la République de Cuba doit être rangée parmi les États de la sixième classe au point de vue de sa participation aux frais du Bureau International.

En priant votre Seigneurie de vouloir bien prendre acte de ce qui précède, je saisis, &c.

(Signé) *F. de Salis.*

The Marquess of Lansdowne to M. de Salis.

Foreign Office, December 19, 1904.

Sir,

I have the honour to acknowledge the receipt of your note of the 9th instant, notifying the accession of Cuba to the Arrangements respecting

1. The prevention of false indications of origin; and

2. The international registration of trade-marks;

which were signed at Madrid the 14th April, 1891, and of which the second has been completed by the Additional Act signed at Brussels the 14th December, 1900.

You state that, no special date having been indicated for the coming into force of these Arrangements so far as regards Cuba, the provisions of Article XVI of the Union Convention, according to which the latter takes effect one month after the notification made by the Swiss Government to the other Contracting States, must, by analogy, be made applicable and that consequently the Arrangements will come into force with respect to Cuba on the 1st January next.

I also note that Cuba will rank among the States of the sixth class with regard to its contribution to the expenses of the International Office.

In thanking you for this communication, I have, &c.

(Signed) *Lansdowne.*

99.

ESPAGNE, COLOMBIE.

Traité de paix et d'amitié; signé à Bogota, le 28 avril 1894.*)

His Excellency the Vice-President of the Republic of Colombia, charged with the Executive Power, on the one part, and Her Majesty the Queen Regent of Spain, on behalf of her august son Don Alfonso XIII, on the other, desiring to draw daily closer the relations of cordial friendship and good feeling which fortunately exist between the two nations, and to remove for the future all motives of discord and disagreement, have agreed to give a wider extension to the Treaty of Peace and Friendship signed in Paris on the 30th January, 1881, modifying moreover Article IV of the same; and for this purpose have nominated as Plenipotentiaries:

His Excellency the Vice-President, his Minister for Foreign Affairs, Marco Fidel Suarez; and

Her Majesty the Queen Regent of Spain, Don Bernardo J. de Cologan, her Minister Resident in Colombia;

Who, after having communicated to one another their respective full powers and found them in good and due form, have agreed upon the following Articles:

Art. I. Every controversy or difference which may arise between Colombia and Spain regarding the interpretation of the existing Treaties, and any others which may hereafter be entered into, shall be decided by an Arbitrator whose decision shall be final, and who shall be proposed and accepted by common agreement. The differences which may arise upon points unforeseen in the said Treaties or Agreements shall likewise be submitted to arbitration; but if there is not an agreement regarding the adoption of this proceeding, because the questions affect the sovereignty of the nation or are otherwise incompatible with arbitration, both Governments will be bound in every case to accept the mediation or good offices of a friendly Government for the amicable solution of all differences. When any difference between Colombia and Spain is submitted to the judgment of an Arbitrator, the High Contracting Parties shall establish, in common accord, the mode of procedure, terms and formalties which the Judge and the Parties must observe, in the course and termination of the judgment by arbitration.

II. The national status of Colombians and Spaniards shall be determined in each of the respective countries, and for legal effects in the same, by its own legislation, unless both Governments hereafter conclude

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*) Les ratifications ont été échangées à Bogota, le 23 avril 1895.

special agreements upon the subjects of nationality and naturalization, with a reciprocal character.

The same rule will be observed regarding moral or judicial persons (corporate bodies), whether they be mercantile associations or others recognized by law in either one of the countries and domiciled or established in the same. The national character of corporate bodies is independent of the private nationality of their members.

III. In case a Spaniard in Colombia or a Colombian in Spain should take part in any internal question or in the civil struggles of either of the two countries, he shall be treated, judged, and, if there be sufficient evidence, condemned by the same procedure, formalities or Tribunals as natives in similar circumstances.

IV. The two Governments cannot reciprocally exact responsibility for damages, vexations or exactions which the natives of either of the two States may suffer within the territory of the other on the part of insurgents, in time of insurrection or civil war or through sedition or riots, or on the part of savage tribes or hordes beyond the control of the Government, excepting it be through the fault or want of vigilance of the authorities of the country, so declared by the Tribunals of the same country. The Spanish and Colombian Governments shall not, therefore, be held reciprocally responsible except for their own acts or the acts performed by their Agents in the exercise of their functions. It is understood, nevertheless, that both Colombians and Spaniards are entitled to the equitable compensation or most favourable remuneration the respective Governments may concede to their own subjects or to aliens in said circumstances.

V. If a Spaniard in Colombia or a Colombian in Spain should take part in sedition, rebellion or civil war, if he should usurp political rights, or fill any such office, employment or function as carries with it a political authority or jurisdiction, he will lose the right to all exemptions and privileges of alienage which Treaties or international law may confer upon him, and be placed on the same footing as the natives in all that concerns the responsibility for his acts.

VI. Spaniards in Colombia and Colombians in Spain shall enjoy the same civil rights as citizens or subjects of the country, and the penal laws enacted for police purposes or for the public safety will be binding upon them. In either case, their goods, rights, penal responsibilities and civil actions will be protected, recognized or qualified by the same competent judicial and administrative authorities who protect, recognize or qualify those of the natives. The sentences, decrees or legal resolutions delivered at the petition, complaint or demand of aliens, and which have acquired definitive shape, in harmony with the instances and formalities which the local legislation requires, will take effect and be carried out in the same manner as in respect to natives of either country. Spaniards in Colombia and Colombians in Spain shall have no right to diplomatic intervention except in the case of a manifest denial of justice, or refusal or negligence in the administration of justice.

VII. The High Contracting Parties reserve to themselves the right to refuse admission to and to expel from their territories, in accordance with their respective laws, such individuals as by their evil life or conduct may be considered pernicious. The means adopted for the expulsion decided upon by one Government shall be communicated to the accredited Representative of the other.

VIII. The two High Contracting Parties guarantee to one another reciprocally most-favoured-nation treatment in all that concerns the establishment of their respective subjects in either of the two countries, as also in the matter of navigation and transit.

IX. The most-favoured-nation clause is not to apply to the special concessions or favours granted to frontier countries.

X. Certificates of studies and University or professional diplomas granted in either of the two countries in favour of Colombians or Spaniards will be reciprocally recognized as valid in the other, as soon as their authenticity and the identity of the holder is proved.

The authenticity shall be established by legalization in the usual way, and the identity of the holder shall be proved by a certificate issued by the respective Legations, and failing that, by some Consular authority resident in the country in which the diploma was conferred, and subject equally to the usual legalization.

These requirements having been fulfilled, and without prejudice to the reciprocal communications by both Governments of the syllabus of studies or of an understanding concerning any other administrative details between them, the studies in the Colleges, Universities or special schools of either country may be assimilated, and the professions to which their diplomas relate may be exercised, it being understood that the persons in question are to submit to all the regulations, taxes and duties applicable to natives.

XI. This Treaty shall be ratified in accordance with the laws of the respective Governments, and the ratifications shall be exchanged at Bogotá as soon as possible. It will remain in force until one year after the day on which one of the High Contracting Parties denounce it in whole or in part.

In virtue of which the Undersigned have signed two copies in Bogotá on the 28th April, 1894.

(L. S.) *Marco Fidel Suárez.*
(L. S,) *Bernardo J. De Cologan.*

100.

CHILI, RÉPUBLIQUE ARGENTINE.

Arrangement pour l'extradition des criminels; signé à Santiago, le 15 mars 1894.

State Papers. V. LXXXVI.

The Government of the Argentine Republic undertake to surrender to the Government of Chile all persons prosecuted, accused or condemned by their Tribunals for any of the crimes or offences specified in their (Argentine) Law for the extradition of criminals of the 25th August, 1885 and who may have taken refuge in the Argentine territory.

The Government of Chile accept on their part the reciprocity referred to in Article 1 of the above Law, and as regards the surrender will conform to the procedure of their own laws.

The present Agreement shall remain in force from the date of its approval by the respective Governments until the Treaty of Extradition concluded by the Plenipotentiaries of each country and now under consideration of the two Congresses shall become valid, or pending the conclusion of the Treaty which in case of the non-approval of the above (first-named) Treaty it is proposed to negotiate, or until one of the Contracting Parties shall announce his intention to terminate the effects of the present Declaration.

Done, signed and sealed by the Minister for Foreign Affairs of Chile, Don Ventura Blanco and by the Envoy Extraordinary and Minister Plenipotentiary of the Argentine Republic, Don Norberto Quirno Costa, in the City of Santiago on the 15th March, 1894.

(L. S.) *V. Blanco.*
(L. S.) *N. Quirno Costa.*

The Argentine Law referred to in the foregoing Agreement is as follows:

Law of the Argentine Republic respecting Extradition. — Buenos Ayres, August 25, 1885.

(Translation.)

Whereas the Senate and Chamber of Deputies of the Argentine Nation, assembled in Congress, &c., sanction the following Law:

Chapter I. Of the Cases of Extradition.

Art. 1. The Government of the Argentine Republic may surrender to foreign Governments, on condition of reciprocity, any person pursued,

accused or convicted by the Courts of the State making the demand, whenever it concerns a crime or offence indicated in the present Law and in conformity with the Rules herein established.

2. The extradition shall only be accorded when demanded in the matter of an offence of a common character, that, according to the laws of the Republic, may be punished by a penalty of not less than one year's imprisonment.

3. The extradition will not be granted:

(1.) When the person claimed may be an Argentine citizen by birth or naturalized before the commission of the offence upon which the request for extradition is founded;

(2.) When the offences committed may be of a political nature or connected with political offences;

(3.) When the offences may have been committed in the territory of the Republic;

(4.) When the offences, although committed outside the Republic, may have been prosecuted and definitely tried within the same;

(5.) When according to the laws of the demanding State, exemption from punishment for or prosecution of the offence upon which the request for extradition is founded may have been acquired by lapse of time.

4. When the person claimed may be a slave, accused or convicted of a common offence, the extradition shall be granted upon the demanding State giving the undertaking to try such person as a free man and to always consider him as such.

5. In the cases in which, in accordance with the dispositions of this law, the Government of the Republic is not able to deliver up the offenders whose surrender is requested, the same shall be tried by the Tribunals of the country, the penalties established by law for such crimes or offences when committed within the territory of the Republic being applied.

The sentence or final decision shall be communicated to the demanding Government.

6. The extradition shall be granted always on condition that the individual extradited shall be neither prosecuted nor punished for an offence other than that upon which the same shall have been based, except it be on account of some other extraditable offence and with the express consent of the Argentine Government in accordance with that which is laid down in Articles 12 and 24.

The restrictions shall not be applicable when the accused has not returned to the Republic within the three months following his being set at liberty, whether he may have remained permanently in the State making the demand, or in any other country.

7. When the extradition is requested of a foreigner accused or convicted by the Courts of the Republic of an offence distinct from that on which the demand is founded, the surrender shall not be effected until after the termination of the trial and the execution of the punishment inflicted. Nevertheless, the temporary delivery of the foreigner may be

granted with the sole object of producing him before the Courts of the demanding country, on condition that he be returned on the termination of the proceedings.

8. If, after the Argentine Government has obtained the extradition of a foreigner, he may be demanded by another State on account of some other offence, the extradition, if there should be ground for the same, shall not be granted without the previous consent of the Government of the country which has surrendered him.

9. If the extradition of a foreigner be applied for on account of crimes committed upon territory distinct from that of the Power making the demand, it shall not be granted except in cases such as those in which, under Argentine laws, the prosecution of offences committed outside its territory is permitted.

10. When two or more countries request the extradition of the same person for different crimes, it shall be granted to that one in the territory of which the greater offence has been committed, and, if such be of equal gravity, to that one whose demand is earliest in date.

11. If the individual claimed be not a citizen of the demanding State, and if he be also claimed by the Government of the country to which he belongs on account of the same offence, the Argentine Government shall have the faculty of delivering him up to whichever it may be considered proper in view of the antecedents of the case.

Chapter II. Of the Procedure of Extradition.

12. Every request for extradition shall be made through the diplomatic channel, accompanied by the following documents:

(1.) The sentence of condemnation notified in accordance with the form prescribed by the legislation of the country making the demand when it relates to a person already convicted, or, when it relates to an accused person, the warrant of arrest issued by the competent Courts with the exact description of the offence upon which the requisition is made. These documents must be presented in original or in duly authenticated copies;

(2.) All the data and information necessary to establish the identity of the person claimed;

(3.) A copy of the legal dispositions applicable to the offence charged according to the legislation of the country making the demand.

13. On receipt of the demand for extradition the Minister for Foreign Affairs will examine it, if it shall be accompanied by the necessary documents, to ascertain whether the facts put forward are covered by the cases comprised in this Law, or whether any of the conditions specified in Article 3 intervene.

14. If the result of this examination should be opposed to the grant of the extradition, he will submit his opinion to the President of the

Republic, in general agreement with the Ministers; if such opinion be accepted, he will transmit it officially to the Diplomatic Minister concerned, with the reasons for such determination.

15. If, on the contrary, the Minister for Foreign Affairs shall consider that the requirements of Article 12 are fulfilled, and that the case comes within the prescriptions of this Law and outside the exceptions defined by Article 3, he shall give immediate notice to the Minister of the Interior in order that the necessary steps shall be taken for the arrest of the person claimed, if it shall not already have been effected, in accordance with the dispositions of Articles 25 and 27.

16. The individual arrested shall be placed at the disposal of the Judge of the district in which the arrest has been effected, with the documents relative to the case, within a period of thirty days. On the expiration of such period, unless the necessary documents have been produced, the person arrested shall be set at liberty by the same Judge.

17. Within twenty-four hours of the receipt of the said documents the Judge shall take a declaration of the alleged offender with the object of proving the indentity of such person, who shall have the assistance of a lawyer for his defence.

18. No question shall be permitted as to the internal validity of the documents produced by the Government making the demand, the duty of the Court being limited to the following points:

(1.) The identity of the person;

(2.) The examination of the external form of documents presented;

(3.) Whether the offence be comprised in those contained in this Law;

(4.) Whether the punishment applicable belongs to the category of the penalties which, by the laws of the country making the demand, correspond to the crime or offence in question;

(5.) Whether the case comes within the provisions of Article 3;

(6.) Whether the sentence or committal to prison, respectively, have been issued by the competent Courts of the country making the demand.

19. The individual claimed, or the lawyer for his defence, shall be allowed six days for the preparation of the defence, and a further six days shall be allowed for the consideration of the same by the Attorney-General („Procurador Fiscal") of the district.

20. If it should be necessary to prove any of the facts, evidence in the matter shall be taken, the prescriptions of the law applicable in similar proceedings in the case of nationals being rigorously observed.

21. The evidence being produced, the Judge shall give his decision thereon within a period of ten days, and shall declare whether or not the demand for extradition should be conceded.

22. If the decision of the Tribunal shall negative the extradition on account of the inadequacy of the documents which should have accompanied the request, the decision shall be communicated by the Minister for Foreign Affairs to the Representative of the country making the demand in order that the deficiency may be made good.

The individual arrested shall be set a liberty if such further documents are not produced, within a period of one month, reckoned from the date of the diplomatic notification, in the case of a neighbouring country, and of three months in any other case.

23. If the decision of the Tribunal, authorizing or refusing the extradition, shall turn upon any of the matters specified in paragraphs (3), (4), (5), and (6) of Article 18, the right of appeal in relation thereto sball lie to the Supreme Court, which shall finally settle the point after previous consultation with the Attorney-General of the nation.

The original records of proceeding shall be passed to the Department for Foreign Affairs through the Department of Justice, and the Resolution shall be transmitted in authenticated copy to the Minister making the demand, together with the Decree authorizing the extradition, if issued.

24. If on account of a crime or offence committed prior to that which is the subject of the extradition, but discovered subsequently, an authorization is requested for the trial of the individual about to be given up; such request, which should be accompanied by the documentary evidence, together with the observations of the individual accused, or his declaration that he has none to make, shall be submitted to the Judge of the district who may have heard the demand for extradition; his decision in the matter cannot be appealed from.

Chapter III. Miscellaneous Provisions.

25. In case of urgency, the Courts of the Republic may order the provisional arrest of a foreigner on the direct application of the judicial authorities of a country bound to the Republic by a Treaty of Extradition whenever the existence of a sentence of condemnation or a warrant for committal to prison is established, and the nature of the offence to be prosecuted is clearly set forth.

The request may be made through the post or by telegraph, but at the same time notice shall be given through the diplomatic channel to the Minister for Foreign Affairs.

The Tribunals which may have carried the arrest into effect shall give immediate notice of the same through the Ministry of Justice to the Ministry for Foreign Affairs.

26. The foreigner arrested under the provisions of the foregoing Article shall be immediately set at liberty if so ordered by the Executive Power, or if within the term of one month as regards a neighbouring country, or two months as regards any other the Argentine Government shall not have received the diplomatic requisition for extradition in due form.

27. The provisional arrest of a foreigner may be, moreover, ordered by the Executive Power on the request of a Diplomatic Minister as soon as the necessary documents to be presented with the request for extradition shall have arrived; in this case, the dispositions of the preceding Articles shall be applicable.

28. The Argentine Government may authorize the transit through the territory of the Republic of an extradited individual who is not an Argentine citizen without any other formality than the presentation through the diplomatic channel of the sentence of condemnation or the warrant for committal to prison corresponding thereto, when such shall not relate to political offences or offences connected thereto, and when the offence may be one subject to extradition according to this law.

29. The papers and other objects which may have been seized in the possession of the alleged offender, and which may serve for the elucidation of the matter that is the subject of the prosecution, shall be handed over to the Government making the demand for extradition, if so required, on the condition that they shall be returned upon the termination of the trial if it should be shown that third parties have rights to the same.

30. The letters of request issued by a competent foreign authority in a criminal matter, not political, shall be forwarded through the diplomatic channel, and shall be transmitted to the competent judicial authorities.

31. The summons in a criminal matter, not political, of witnesses domiciled or resident in the Republic shall neither be received nor notified except on the condition that the said witnesses shall not be prosecuted for offences committed nor imprisoned under sentences passed anterior to their departure from the country, nor as accomplices in the matter in which they are to appear as witnesses; it being fully understood that the appearance of such witnesses is purely voluntary, and at the expense of the Government making the request.

32. The procedure established in the present law shall be applicable to the cases governed by Treaties of Extradition in all such matters as may not be opposed to the stipulations of the same.

33. The Executive Power shall denounce upon the termination of the period of their duration all Treaties of Extradition which cannot be reconciled to the prescriptions of this Law.

34. Let it be communicated to the Executive.

Given in the Hall of Sessions of the Argentine Congress at Buenos Ayres, the 20th day of August, 1885.

Francisco B. Madero.

Adolfo J. Labougle, Secretary of the Senate.

Rafael Luis de los Llanos.

Juan Obando, Secretary, ad interim, of the
Chamber of Deputies.

Let it be fulfilled, communicated, published, and inserted in the Official Gazette.

Buenos Ayres, August 25, 1885.

Roca.

Francisco J. Ortiz.

101.

ETAT-INDÉPENDANT DU CONGO.

Décret concernant l'organisation du gouvernement de l'Etat Indépendant du Congo; donné à Bruxelles le 1er septembre 1894.

Léopold II, Roi des Belges, Souverain de l'État Indépendant du Congo, à tous présents et à venir, Salut:

Sur la proposition de notre Secrétaire d'État,

Nous avons décrété et décrétons.

Art. 1er. Le Gouvernement Central est placé sous la haute direction d'un Secrétaire d'État unique, nommé par nous.

Le Secrétaire d'État est chargé de l'exécution des mesures décidées par nous. Il contresigne les actes du Roi-Souverain.

2. Le Secrétaire d'État est assisté, indépendamment d'un Chef de son Cabinet, d'un Trésorier-Général et de trois Secrétaires-Généraux nommés par nous. Les attributions de ces fonctionnaires, pour autant qu'elles n'auront pas été déterminées par nous, sont réglées par le Secrétaire d'État. Il peut, dans la mesure de ce qu'il juge utile, déléguer à ces fonctionnaires une partie de ses pouvoirs administratifs.

3. Le Secrétaire d'État règle l'organisation et les attributions des différents services du Gouvernement Central. Il pourvoit à la nomination des fonctionnaires de ces services jusqu'au grade de Chef de Bureau inclusivement. Il fixe leur traitement dans les limites du Budget approuvé par nous.

4. Notre Secrétaire d'État est chargé de l'exécution du présent Décret, qui entre en vigueur ce jour.

Donné à Bruxelles, le 1er septembre 1894.

Léopold.

Par le Roi-Souverain:
Edm. van Eetvelde, Secrétaire d'État.

Le Secrétaire d'État,

Vu le Décret du 30 octobre, 1885; l'Article 3 du Décret du 17 novembre, 1888; les Décrets des 19 juin, 1891, et 1er septembre, 1894;

Considérant qu'il y a lieu de régler les différents services du Gouvernement Central;

Arrête:

Chapitre I. Division des Services; Attributions du Trésorier-Général et des Secrétaires-Généraux.

Art. 1er. Le Gouvernement Central de l'État comprend, indépendamment du Cabinet du Secrétaire d'Etat, la Trésorerie-Générale, les Départe-

ments des Affaires Étrangères, des Finances et de l'Intérieur, gérés respectivement, sous la haute direction et le contrôle du Secrétaire d'Etat, par un Trésorier-Général et trois Secrétaires-Généraux, nommés par le Roi-Souverain.

2. Les attributions de ces fonctionnaires sont déterminées comme suit:

Trésorier-Général.

Comptabilité générale des recettes et des dépenses de l'État;
Dette publique;
Service de la Trésorerie.

Secrétaire-Général aux Affaires Étrangères.

Relations internationales;
Services Diplomatiques et Consulaires;
Extraditions;
État civil, successions, &c., des étrangers;
Ports et rades;
Sociétés de commerce;
Immigration;
Postes et télégraphes;
Organisation judiciaire;
Législation civile, commerciale et pénale;
Bienfaisance, cultes;
Instruction publique.

Secrétaire-Général aux Finances.

Budget général de l'État;
Création et perception des impôts de toute nature;
Questions et statistiques commerciales et monétaires;
Commerce intérieur er extérieur;
Régime foncier, cadastre, hypothèques;
Domaine de l'Etat;
Concession du chemin de fer du Congo;
Mines.

Secrétaire-Général à l'Intérieur.

Administration et police du territoire des provinces et des communes;
Force publique;
Matériel d'artillerie, Armes et munitions;
Marine de l'État;
Service des transports;
Collections scientifiques;
Hygiène publique. Service médical;
Voies de communication et voirie;
Service de l'intendance;
Travaux publics;

Contructions. Entretien et mobilier des bâtiments de l'État, agriculture, industrie, et plantations;

Exploitation du domaine privé.

Tout conflit d'attributions est tranché par le Secrétaire d'État.

Le Secrétaire d'État se réserve, chaque fois qu'il le juge utile, de faire traiter dans son Cabinet des affaires ressortissant à ces différents services.

3. Le Trésorier-General et les Secrétaires-Généraux assurent la marche des services placés dans leurs attributions, d'après les instructions générales que leur donne le Secrétaire d'État.

Ils en réfèrent au Secrétaire d'État au moyen d'un rapport écrit, chaque fois qu'il se présente des affaires soulevant des questions de principe nouvelles ou sur lesquelles il convient de prendre les ordres du Roi-Souverain. Ils lui en réfèrent en tous cas chaque fois qu'il s'agit de modifier ou d'interpréter les arrêtés, ordonnances, règlements, ou instructions écrites du Gouvernement Central ou du Gouverneur-Général.

Sous la réserve résultant, tant des alinéas précédents que de l'Article 4, les Secrétaires-Généraux sont autorisés à traiter directement.

Le Secrétaire-Général aux Affaires Étrangères.

Instruction des candidatures et engagement du personnel pour les services d'Afrique, jusqu'aux agents de la Catégorie (G), fixée par le Décret du 6 Octobre, 1888, inclusivement;

Service postal;

Etat civil et successions;

Brevets et dépôt d'actes de commerce et de marques de fabriques;

Affaires du Conseil Supérieur;

Cultes et bienfaisance;

Immigration;

Instruction publique;

Liquidation des comptes des agents;

Matériel et fournitures.

Le Secrétaire-Général aux Finances.

Instruction des candidatures et engagement du personnel pour les services d'Afrique, jusqu'aux agents de la Catégorie (G), fixée par le Décret du 6 Octobre, 1888, inclusivement;

Demandes de renseignements concernant les impôts et le régime des terres;

Matériel et fournitures;

Liquidation des comptes des agents;

Questions et statistiques commerciales et monétaires.

Le Secrétaire-Général à l'Intérieur.

Instruction des candidatures et engagement du personnel pour les services d'Afrique, jusqu'aux agents de la Catégorie (G), fixée par le Décrét du 6 Octobre, 1888, inclusivement;

Commande de marchandises et matériel de toute espèce pour l'Afrique;
Recrutement du personnel noir; camps d'instruction;
Matériel d'artillerie, armes et munitions;
Marine de l'État;
Service des transports;
Service de l'intendance;
Construction, entretien et mobilier des bâtiments de l'État;
Matériel de fournitures du Département;
Liquidation des comptes des agents.

4. Le Secrétaire d'État se réserve de signer toutes les correspondances adressées aux Gouvernements et aux fonctionnaires Belges et étrangers, aux administrations publiques, au Conseil Supérieur, aux associations commerciales, religieuses et philanthropiques ayant un siège au Congo, ainsi qu'au Gouverneur-Général. Toutefois, le Trésorier-Général et les Secrétaires-Généraux correspondent directement, au nom du Secrétaire d'État, avec le Gouverneur-Général, sur les affaires reprises à l'Article précédent.

Ils signent, au nom du Secrétaire d'État, les correspondances qui ont trait à ces affaires. Les Secrétaires-Généraux correspondent entre eux sur les affaires qu'ils ont à traiter directement.

5. Toute pièce, avant d'être soumise à la signature du Secrétaire d'État ou du fonctionnaire supérieur délégué, doit être approuvée en minute qui sera paraphée par celui qui en a la signature. Il ne pourra être apporté aucun changement à la rédaction des pièces paraphées par le Secrétaire d'État ou par le Secrétaire-Général compétent, à moins qu'elles ne leur soit représentées.

6. Le Trésorier-Général et les Secrétaires-Généraux remplacent le Secrétaire d'État en cas d'absence ou d'empêchement, chacun en ce qui concerne les services de son Département.

7. Les dépenses de la Trésorerie-Générale, ainsi que celles à imputer sur les comptes pour ordre et les articles du budget indiqués spécialement par le Secrétaire d'État, sont ordonnancées exclusivement par celui-ci. Les Secrétaires-Généraux ordonnanceront les dépenses autorisées par le Secrétaire d'État, chacun en ce qui concerne les services placés dans ses attributions. Cette autorisation, qu'elle soit générale ou spéciale, doit être donnée par écrit.

8. Le Trésorier-Général et les Secrétaires-Généraux ont le contrôle et la police des bureaux relevant de leur Département. Ils distribuent le travail des Divisions. Ils veillent spécialement à ce que les heures fixées pour le travail des bureaux soient régulièrement observées.

Trésorerie Générale.

9. Le Trésorier-Général dirige le service de la Comptabilité-Générale et de la Trésorerie, sous l'autorité directe du Secrétaire d'État et conformément au Décret du 6 Octobre, 1885.

Le service du Trésorier-Général comprend la comptabilité des recettes et des dépenses de l'État, les comptes des comptables et du budget général

de l'État, la dette publique, le service de la Trésorerie, la comptabilité de l'emprunt et du fonds d'amortissement, la comptabilité des fabrications de monnaies, des dépôts des coins et viroles et des types monétaires, la vérification des comptes de fabrication, le placement des fonds disponibles de l'État, les versements à la Caisse d'Épargne, et le service du caissier de l'État.

10. Le Trésorier-Général veille à ce qu'aucun article du budget des dépenses ne soit dépassé et à ce qu'aucun transfert n'ait lieu.

Il s'abstient de payer tout mandat créé contrairement aux présentes dispositions et il fait connaître au Secrétaire d'État les motifs qui l'ont déterminé à s'abstenir. Dans ce cas, il est statué par le Roi-Souverain, le Secrétaire d'Etat entendu.

Les comptes de tous les comptables de l'Etat sont soumis à l'examen et à la liquidation du Trésorier-Général, qui peut se faire fournir tous états, renseignements et éclaircissements relatifs à la recette et à la dépense des deniers du Trésor. Il correspond directement à cet effet avec le Secrétaire d'Etat et le Gouverneur-Général. (Décret du 10 Mai, 1893.)

11. Dans les premiers jours de chaque mois le Trésorier-Général adresse au Secrétaire d'Etat un relevé indiquant, par exercice, par Département, et par article du budget, les dépenses payées sur crédits ouverts pendant le mois précédent. Il lui rend compte vers le milieu de chaque mois de la situation du Trésor.

A la fin de chaque trimestre il transmet au Secrétaire d'Etat un relevé des recettes effectuées tant en Europe qu'en Afrique; il lui remet, en outre, avec un bordereau, en double, les mandats émis par lui, par les Secrétaires-Généraux et par le Gouverneur-Général, et acquittés pour compte de leurs Départements respectifs.

12. Le Trésorier-Général traite directement avec les particuliers toutes les affaires ayant pour objet l'encaissement des sommes qui lui ont été signalées par chaque Département comme étant dues à l'Etat, ainsi que le payement des mandats émis, sauf à en référer au Secrétaire d'Etat dans les cas litigieux. Il correspond directement avec les comptables au Congo pour tous les objets prévus par le réglement sur la comptabilité du 1er November, 1889.

Il présente au Secrétaire d'Etat les remarques auxquelles donnent lieu la vérification des états formés et des pièces justificatives produites par les comptables en Afrique; si des observations critiques doivent être faites à ces derniers, il les formule dans des projets de dépêche au Gouverneur-Général au Congo et soumet ces projets au Secrétaire d'Etat.

Il agit de même pour ce qui concerne les dépêches relatives aux envois de fonds en Afrique et la correspondance traitant des questions de principe concernant la comptabilité ou le service de la Trésorerie au Congo.

13. Le Trésorier-Général traite directement avec le caissier de l'Etat toutes les questions se rattachant au service financier de la Trésorerie. Il reçoit les instructions du Secrétaire d'Etat en ce qui concerne le placement des fonds disponibles.

Chapitre II. Cabinet du Secrétaire d'Etat.

14. Le Cabinet du Secrétaire d'Etat est dirigé par un fonctionnaire ayant le titre de Chef de Cabinet. Il relève directement du Secrétaire d'Etat.

Les attributions principales du Chef de Cabinet comprennent:

La réception et l'ouverture des dépêches, lettres, documents, paquets, ayant un caractère officiel, qu'ils soient adressés au Secrétaire d'Etat ou aux fonctionnaires placés sous sa haute direction;

Les demandes d'audience au Secrétaire d'Etat;

Les affaires que le Secrétaire d'Etat se réserve de traiter personnellement;

Les affaires d'une nature confidentielle;

Les affaires soulevant des questions de principe;

Les affaires relatives au personnel supérieur;

La fixation et le contrôle des dépenses autorisées par le Secrétaire d'Etat;

La préparation du Budget de l'Etat;

La conservation des originaux des Décrets et des Arrêtés du Gouvernement Central; les Ordonnances, et les Arrêtés du Gouvernement local autres que ceux qui portent nomination d'agents;

La conservation du chiffre de l'Etat; les télégrammes chiffrés;

La conservation des archives confidentielles;

Le „Bulletin Officiel;“ les Ordres et l'Etoile de service; la Bibliothèque.

Le Chef de Cabinet aura en tout temps accès à toutes les divisions pour se faire remettre sans délai les pièces et documents requis par le Secrétaire d'Etat. Il communique au Département compétent, dans les trois jours de leur signature, les originaux des Décrets et Arrêtés; les Départements, après avoir fait tirer copie, renverront aussitôt l'original au Cabinet.

15. Toute dépêche ou document quelconque destiné au Gouvernement Central doit être adressé au Secrétaire d'Etat.

Les pièces sont envoyées du Cabinet du Secrétaire d'Etat au Trésorier-Général ou Secrétaire-Général compétent, qui, avant de les distribuer aux chefs de service, les fait enregistrer à l'indicateur général de leur Département respectif.

La distribution se fait dans des portefeuilles portant une indication spéciale pour chaque Département.

Si une pièce est remise à une division sans avoir passé par l'indicateur général, elle sera renvoyée au Secrétaire-Général.

Si le Chef de service auquel une pièce est transmise de l'indicateur général pense qu'elle ne rentre pas dans ses attributions, il la renvoie au Secrétaire-Général avec une note motivée.

Les pièces adressées par erreur à un Département sont renvoyées à leur destination par le Secrétair-Général.

16. Les pièces que le Secrétaire d'Etat se réserve de traiter dans son Cabinet sont inscrites à un indicateur spécial. Les autres sont envoyées du Cabinet au Trésorier-Général ou au Secrétaire-Général compétent.

17. Les fonds ou valeurs quelconques annexés à des communications adressées au Secrétaire d'Etat sont transmis directement du Cabinet au Secrétaire-Général compétent.

Leur réception est constatée au moyen d'une mention apposée et paraphée par le Chef de Cabinet.

Chapitre III. Subdivision des Départements et Travail des Bureaux.

18. Les Départements sont subdivisés en divisions ayant à leur tête un Chef de division.

Les Chefs de division veillent à ce que chaque pièce de la correspondance extérieure soit enregistrée au moment de son entrée dans la division, à ce qu'on y renseigne la date de l'enregistrement, ainsi que le numéro d'ordre de son dossier.

Ils répartissent le travail entre les employés sous leurs ordres d'après les indications que leur fournira le Secrétaire-Général.

19. Les dépêches sont copiées dans chaque bureau lisiblement et proprement, sans surcharges ni ratures. Le Chef de bureau collationne ou fait collationner avec soin les expéditions et paraphe pour collation.

20. Chaque dossier doit être accompagné d'un inventaire. Les minutes portent le nom du rédacteur et les indications identiques à celles qui doivent être inscrites sur la copie.

Si elle répond à une communication émanant d'une administration publique, la dépêche rappellera en marge l'objet de la lettre à laquelle, elle répond, ainsi que les numéros portés sur celle-ci, et désignant la branche du service à laquelle l'affaire ressortit et les diverses indications.

21. La compétence de chacune des divisions est déterminée par le Secrétaire-Général avec l'approbation du Secrétaire d'Etat.

22. Il est tenu dans chaque division, pour les affaires qui y sont traitées, un registre des questions de principe soulevées par l'examen des dossiers. Il est fait, en outre, un historique des affaires dont il est utile de conserver le souvenir.

23. Les Chefs de division surveillent la tenue des registres, le classement des pièces, ainsi que la tenue des dossiers et des archives. Les pièces devront être classées dans les huit jours de la date de l'expédition ou de la réception.

24. La remise et la transmission des pièces dans les bureaux et les communications doivent se faire exclusivement par les commis. Ces derniers ne peuvent pas se servir des sonneries d'appel de l'huissier, du concierge ou des messagers, même s'il en existe dans le bureau qu'ils occupent.

25. Il est expressément interdit aux fonctionnaires et employés autres que les Chefs de Département, dûment autorisés par le Secrétaire d'Etat, de traiter directement certaines catégories d'affaires, de correspondre pour

les affaires du Département avec les autorités ou particuliers, en Belgique ou à l'étranger, ni de communiquer à qui que ce soit des pièces déposées aux dossiers.

Aucun dossier ne peut être emporté du Département sans une autorisation spéciale du Secrétaire-Général.

26. Les fonctionnaires et employés doivent, chaque fois qu'ils sortent du Département, remettre chez le concierge les clefs de leurs bureaux; ils les y reprennent en rentrant.

Rang hiérarchique des Fonctionnaires.

27. Le rang hiérarchique des fonctionnaires, autres que le Trésorier-Général, les Secrétaires-Généraux, et le Chef de Cabinet, est établi comme suit:

Chef de Division et Sous-Directeur;
Chef de Bureau;
Sous-chef de Bureau;
Premier Commis;
Deuxième Commis;
Troisième Commis.

28. Les fonctionnaires et employés du même grade prennent rang d'après la date de leur nomination; à parité de date, le rang est déterminé par le Secrétaire d'Etat.

29. Dans le calcul de l'ancienneté dans chaque grade, chaque année passée au service de l'Etat au Congo est comptée pour une année et demie de service.

Tout conflit d'attributions ou de préséance des fonctionnaires désignés à l'Article 29 est déféré au Secrétaire-Général et tranché par lui.

Cadres et Traitements.

30. Le cadre et les traitements du personnel du Gouvernement Central sont fixés comme suit:

Grades et Emplois.	Traitement assigné à chaque Grade ou Emploi.	
	Minimum.	Maximum.
	Fr.	Fr.
Chef de Division et Sous Directeur . .	4,000	7,000
Chef de Bureau	3,000	4,500
Sous-Chef de Bureau	2,500	3,250
Premier Commis	2,100	3,250
Deuxième Commis	1,500	2,000
Troisième Commis	900	1,400

31. Le traitement et les allocations du personnel sont fixés par le Secrétaire d'Etat.

Nul n'est promu à un grade supérieur avant d'avoir servi au moins trois ans comme titulaire dans le grade immédiatement inférieur.

De même nul n'obtient une augmentation de traitement avant deux ans de service dans son grade; en outre, les augmentations successives doivent s'espacer de deux ans au moins.

Il peut, néanmoins, être dérogé à ces dispositions lorsqu'il sagit de récompenser, soit des services dont l'importance exceptionnelle a été dûment constatée, soit des preuves d'une capacité ou d'un dévouement extraordinaire

32. Les fonctionnaires ou employés ne peuvent gérer simultanément aucun autre emploi rétribué. Il leur est interdit d'exercer aucune profession lucrative, de faire, soit par eux-même, soit sous le nom de leur femme ou de toute autre personne interposée, aucune espèce de commerce, ou de participer à la direction ou à l'administration d'aucune société ou établissement de commerce.

Le Secrétaire d'Etat pourra, dans des cas particuliers, lever les interdictions établies par les deux paragraphes précédents.

33. Les fonctionnaires ou employés doivent être présents dans leurs bureaux tous les jours, Dimanches et fêtes exceptés, aux heures fixées par le Secrétaire d'Etat, sauf les tolérances individuelles autorisées par le Chef de Département compétent.

La présence des fonctionnaires et employés dans les bureaux peut, toutefois, être toujours requise en dehors des heures fixées, par le Secrétaire d'Etat ou les Chefs de Département, même les jours fériés.

Il est interdit aux fonctionnaires et employés de quitter leurs bureaux pendant les heures réglementaires de travail, à moins d'une autorisation du Secrétaire-Général.

Congés.

Les jours fériés sont:
Les Dimanches;
Le 1er janvier;
Le Mardi-Gras, à partir de midi;
Le Jeudi-Saint, à partir de midi;
Le lundi de Pâques;
Le 9 avril, anniversaire de la naissance du Roi;
Le jour de l'Ascension;
Le lundi de la Pentecôte;
Le 1er juillet (anniversaire de la Proclamation de l'Etat);
Le 21 juillet (anniversaire de l'inauguration de Léopold I);
Le 15 août;
Le 1er novembre;
Le 2 novembre à partir de midi;
Le 15 novembre (fête onomastique de Sa Majesté le Roi-Souverain);
Le 25 décembre;
Le lendemain de la Noël.

34. Les congés sont accordés par le Secrétaire d'État aux Chefs de Département. Ceux-ci accordent les congés au personnel sous leurs ordres sans qu'en aucun cas ces congés puissent dépasser annuellement:

Pour les Chefs de Division et Sous-Directeurs, quinze jours; Chefs et Sous-Chefs de Bureau, douze jours; Commis, dix jours.

35. En cas d'absence ou d'empêchement d'un Chef de Département, le Secrétaire d'État pourvoit à son remplaçant. En cas d'absence d'un autre fonctionnaire, le remplaçant, s'il y a lieu, est désigné par le Secrétaire-Général.

36. Les peines disciplinaires à appliquer, suivant la gravité du fait sont:

La réprimande;

La privation de traitement;

La suspension;

La privation d'un ou de plusieurs grades;

La révocation.

En tous cas l'employé sera préalablement entendu.

La réprimande est donnée aux fonctionnaires ou employés par le Trésorier-Général ou le Secrétaire-Général du Département auquel ils appartiennent.

La privation de traitement est prononcée par le Chef de Département pour un terme qui ne peut excéder deux mois.

La suspension entraîne la privation du traitement et l'interdiction d'exercer les fonctions; elle est prononcée par le Secrétaire d'État pour un terme qui ne peut excéder six mois.

La privation d'un ou de plusieurs grades et la révocation sont prononcées soit par le Roi-Souverain, soit par le Secrétaire d'Etat, suivant que le fonctionnaire est nommé par le Roi-Souverain ou par le Secrétaire d'Etat en vertu de l'Article 3 du Décret du 1er septembre 1894.

Chapitre IV.

37. Toute disposition contraire au présent Règlement est abrogée.

Bruxelles, le 10 octobre 1894.

Edm. van Eetvelde.

(Annexe.) Gouvernement Local au Congo.

Le Gouvernement Local a son siège à Boma. Il est placé sous la haute direction d'un Gouverneur-Général.

(Décrets des 16 avril 1887, 22 juin 1889, et 28 fevrier 1890, sur l'Organisation du Gouvernement Local.)

Art. 1er. Le Gouverneur-Général représente dans le territoire de l'Etat l'autorité souveraine. Il est chargé d'administrer le territoire et d'y assurer l'exécution des mesures décidées par le Gouvernement Central.

Le Gouverneur-Général a la haute direction de tous les services administratifs et militaires établis dans l'Etat.

2. Il est assisté d'un Vice-Gouverneur-Général, d'un Inspecteur d'Etat, d'un Secrétaire-Général, et d'un ou plusieurs Directeurs, tous nommés et révoqués par Décret. Les attributions de ces fontionnaires,

pour autant qu'elles n'aient pas été déterminées par Décret, sont réglées par le Gouverneur-Général.

3. Des Commissaires de District représentent l'administration générale de l'Etat dans les circonscriptions qui leur sont assignées.

Leurs attributions, en tant qu'elles ne résultent pas des Décrets et des Arrêtés du Gouvernement Central, sont réglées par le Gouverneur-Général.

Les Commissaires de District et les autres Agents de l'Etat, pour autant qu'ils n'aient pas reçu de nomination du Gouvernement Central, sont nommés par le Gouverneur-Général.

Celui-ci fixe la résidence de ces fonctionnaires.

4. Le Gouverneur-Général est autorisé à pourvoir provisoirement, par la désignation d'intérimaires, à tous les emplois qui deviendraient vacants ou dont les titulaires seraient momentanément absents ou empêchés.

Les fonctionnaires intérimaires jouissent pendant leur intérim de la même autorité que les titulaires de l'emploi.

5. Le Gouverneur-Général peut, s'il le juge utile à la bonne administration du pays, commettre, pour un terme maximum d'un an, un fonctionnaire aux fins d'inspecter ou d'administrer une partie du territoire de l'Etat. Une lettre de commission détermine l'étendue et la durée des pouvoirs qui lui sont délégués à cet effet par le Gouverneur-Général.

6. Le Gouverneur-Général peut édicter des Ordonnances ayant force de loi. Il peut aussi, en cas d'urgence, suspendre, par Ordonnance, l'exécution d'un Décret du Souverain.

Ces Ordonnances cessent leurs effets à l'expiration de six mois, si elles n'ont pas été approuvées par Décret dans ce délai.

Il ne peut néanmoins, sans autorisation expresse du Roi-Souverain, contracter aucun emprunt au nom de l'Etat, ni pendre aucun engagement envers les pays étrangers.

7. Le Gouverneur-Général est autorisé, en outre, à prendre des règlements obligatoires de police et d'administration publique.

Ces règlements peuvent établir des peines ne dépassant pas sept jours de servitude pénale et 200 fr. d'amende.

8. En cas d'absence ou d'empêchement, le Gouverneur-Général est remplacé provisoirement par le Vice-Gouverneur-Général, ou par l'Inspecteur d'Etat, ou enfin par un intérimaire désigné par le Roi-Souverain. A défaut de Vice-Gouverneur-Général, d'Inspecteur d'Etat et d'intérimaire désigné par le Roi-Souverain, le Gouverneur-Général pourra désigner lui-même l'intérimaire. Dans le cas où aucun intérimaire n'aurait été ainsi désigné, les fonctions de Gouverneur-Général seront exercées par un „Comité Exécutif,“ composé du Secrétaire-Général, des Directeurs, du Commandant de la Force Publique, et, s'il y a lieu, d'un ou plusieurs nembres choisis par le Roi-Souverain pour faire éventuellement partie de ce Comité. La présidence du Comité appartient au plus ancien de ses membres. Il prend ses décisions à la majorité des voix; en cas de partage, la voix du Président est prépondérante.

9. Il est institué sous la présidence du Gouverneur-Général un „Comité Consultatif," composé comme suit:

Le Vice-Gouverneur-Général;

L'Inspecteur d'Etat;

Le Juge d'Appel;

Le Secrétaire-Général;

Les Directeurs;

Le conservateur des titres fonciers, et un certain nombre des membres, ne dépassant pas cinq, à choisir par le Gouverneur-Général pour le terme d'une année. En cas d'empêchement ou d'absence du Gouverneur-Général, la présidence du Comité est dévolue à celui qui le remplace ou, à son défaut, au Président du „Comité Exécutif."

10. Le Gouverneur-Général prend l'avis du Conseil sur toutes les mesures d'intéret général qu'il peut y avoir lieu d'adopter ou de proposer au Gouvernement Central.

Il n'est pas tenu de se conformer à cet avis.

Secrétariat du Gouvernement Local.

Le Secrétaire-Général a dans ses attributions;

La direction du Secrétariat-Général;

Le classement et la conservation des archives;

La statistique.

Le Secrétaire-Général signe la correspondance „pour le Gouverneur-Général" dans les limites fixées par ce dernier.

Direction de la Justice.

La Direction de la Justice comprend.

a) Justice:

Instructions à donner au personnel judiciaire en conformité des Décrets et Ordonnances;

Surveillance et inspection des parquets des greffes:

Comptabilité du greffe.

b) Notariat:

Instructions à donner aux notaires pour la rédaction des actes et leur validité;

Inspection des registres des notaires.

c) Etat civil:

Instructions à donner aux officiers de l'état civil;

Inspection des registres;

Recensement;

Successions des étrangers.

d) Régime pénitencier:

Inspection des prisons et des registres d'écrou;

Applications des règlements pénitentiaires.

e) Questions relatives aux cultes.

f) Registres de chancellerie;

Transmissions des commissions rogatoires.

Le Directeur de la Justice peut correspondre avec les Agents de l'Etat au sujet des divers services énumérés ci-dessus: les fonctionnaires lui adresseront directement les rapports, lettres, et documents concernant les affaires ressortissant à ses attributions.

Le Directeur de la Justice fera rapport au Gouverneur-Général sur toutes les affaires présentant quelque importance, et prendra au besoin son avis.

Il lui adressera des rapports sur toutes les améliorations et modifications qu'il jugera utiles d'introduire dans l'intérêt du service.

Direction des Transports, de la Marine, et des Travaux Publics.

La Direction des Transports, de la Marine, et des Travaux Publics comprend:

Service des Transports.

Réception, au Congo, des marchandises ou matières quelconques venant d'Europe ou des services de l'Etat en Afrique;

Expédition ou remise de ces matières aux divers services de l'Etat;

Expédition en Europe des produits et matières appartenant à l'Etat;

Projets d'organisation du transport par eau et par terre dans le Bas-Congo, ainsi que le Moyen-Congo, et notamment études relatives au développement du portage; le Directeur des Transports procède à celles-ci autant que possible en conférant avec les Commissaires des Districts et Chefs des Régions où se recrutent les porteurs. Tous les six mois il soumet au Gouverneur-Général un rapport résumant le résultat de ces travaux;

Relations avec les sociétés de commerce ou les particuliers au point de vue du transport.

Contrôle des Magasins de Transit.

Les magasins de transit de chaque localité sont tenus par un agent réceptionnaire, qui est sous les ordres directs du Directeur des Transports; sans autorisation de celui-ci l'agent réceptionnaire ne peut être employé à d'autres services.

Contrôle Administratif du Recrutement des Porteurs.

Les Commissaires des Districts et les Chefs des Régions susmentionnés fournissent mensuellement à la Direction des Transports les rapports dont celle-ci a besoin pour exercer son contrôle. La Direction des Transports propose au Gouverneur-Général les mesures qui lui sont suggérées par l'examen de ces pièces.

Service de la Marine.

Entretien et surveillance des bateaux et des embarcations de l'Etat dans le Bas- et le Moyen-Congo;

Administration du personnel;

Demandes des matières de consommation, d'entretien, et de rechange. Surveillance de leur emploi;

Examen des réquisitions concernant la marine du Haut-Congo.

Service des Travaux Publics.

Bâtiments d'État (études, construction, et surveillance), excepté les bâtiments militaires;

Voies de communication (routes, chemins, vois ferrées, voies fluviales autres que le Bas-Congo);

Ateliers de l'État, excepté les ateliers militaires;

Matériel, matières, et matériaux de construction exotiques, excepté ceux destinés au service militaire;

Matières et matériaux de construction indigène;

Voirie de l'État (étude des plans d'alignement et de nivellement des centres à créer);

Contrôle des constructions et travaux d'intérêt public exécutés par des tiers;

Administration du personnel ouvrier civil;

Comptabilité des travaux.

Le Directeur des Transports, de la Marine, et des Travaux Publics correspond avec les Agents de l'État pour traiter les affaires ressortissant à ses attributions.

Il adresse au Gouverneur-Général des rapports sur toutes les améliorations et modifications qu'il juge utile d'introduire dans l'intérêt de l'État.

Direction de l'Intendance.

L'Intendance comprend les services suivants:

Vérification des comptes périodiques des districts;

Comptabilité ressortissant au Département de l'Intérieur;

Engagement et tenue des comptes des artisans à l'exception de ceux au service des Travaux Publics et de la Marine;

Recollement et expédition de factures et pièces comptables;

Réception, conservation des fournitures de bureau, commandes diverses en ce qui concerne ces fournitures;

Liquidation des indemnités de nourriture;

Ventes au comptant aux Agents de l'État;

Vérification et visa des réquisitions, sauf pour la Marine et les Travaux Publics;

Surveillance administative de Boma Plateau, Boma Rive, et des magasins généraux de l'État;

Ecritures relatives à la réception et à l'expédition des marchandises et provisions diverses destinées aux stations, camps, expéditions, &c., à l'exception de ce qui regarde le service actif des transports;

Questions administratives relatives aux ravitaillements de toute nature, sauf celles concernant la Force Publique, la Marine, et les Travaux Publics.

L'Intendant assure les services énumérés à l'Article 1er.

Il correspond avec les Agents de l'Etat pour traiter les affaires ressortissant à ses attributions.

Il adresse au Gouverneur-Général des rapports sur toutes les améliorations et modifications qu'il juge utile d'introduire dans l'intérêt de l'Etat.

Direction de l'Agriculture et de l'Industrie.

Il est créé à Boma une Direction de l'Agriculture et de l'Industrie.

Le Directeur de l'Agriculture est spécialement chargé:

(a.) De la surveillance générale des plantations et des pépinières de l'Etat.

Il est tenu de s'assurer par de fréquentes tournées d'inspection de l'exécution des instructions du Gouvernement relatives notamment aux plantations de café, de cacao, d'élaïs, &c.

(b.) De l'étude des essences forestières, et de leur exploitation, de la conservation, et de la plantation des lianes et arbres à caoutchouc, ainsi que de la surveillance des travaux de remboisement.

(c.) De la direction des recherches et des travaux d'exploitations minières effectuées par l'Etat.

(d.) De l'étude des produits naturels manufacturés et des moyens de développer les industries indigènes en vue d'exploitation de ces produits.

Il forme des collections des diverses productions manufacturières.

(e.) De la surveillance générale des troupeaux de l'Etat et de tout ce qui concerne l'élève du bétail.

Direction des Travaux de Défense.

Le Directeur des Travaux de Défense s'occupe, sous la haute direction du Gouverneur-Général, de l'étude de toutes les questions relatives à la défense de l'Etat.

Il dirige personnellement les travaux de fortification du Bas-Congo, d'après les plans arrêtés par le Gouvernement Central et suivant ses instructions. Il exerce également le commandement supérieur des forts du Bas-Congo.

Direction de la Force Publique.

Le Commandant de la Force Publique exerce, sous la haute direction du Gouverneur-Général, les attributions lui dévolues par le réglement sur les services et la comptabilité de la Force Publique.

Direction des Finances.

La Direction des Finances comprend les services suivants:

(a.) Perception des impôts de toute nature;

Acquisition et location de terres par des particuliers;

Enregistrement des terres;

Cadastre;

Occupation des terres:

Comptabilité générale de l'Etat (ressortissant au Département des Finances);

Monnaies et questions monétaires.

(b) Commerce intérieur et extérieur;
Navigation marchande;
Ports et rades;
Sociétés de commerce;
Immigration;
Relations postales et télégraphiques.

(c.) Les attributions spéciales qui sont conférées au Directeur des Finances par les divers Décrets, Arrêtés, et Ordonnances.

Le Directeur des Finances pourra correspondre avec tous les Agents de l'Etat au sujet des divers services énumérés ci-dessus; les fonctionnaires lui adresseront directement les rapports, lettres, et documents concernant les affaires ressortissant à ses attributions.

Le Directeur des Finances fera rapport au Gouvernement Général sur toutes les affaires présentant quelque importance et prendra au besoin son avis.

Il adressera au commencement de chaque mois au Gouverneur-Général, un état indiquant la quantité de numéraire se trouvant dans les caisses de l'Etat, afin que les comptables soient toujours à même de payer les mandats émis.

Il adressera au Gouverneur-Général des rapports sur toutes les améliorations et modifications qu'il jugera utile d'introduire dans l'intérêt du service.

Art. 1er. D'après les Décrets organisant les divers services de l'Etat en Afrique, certains agents sont nommés par le Roi-Souverain; les autres peuvent tenir leur nomination soit du Secrétaire d'Etat, soit du Gouverneur-Général.

Le Gouverneur-Général choisit de préférence les agents à nommer par lui parmi les agents d'un grade inférieur qui sont déjà au service de l'Etat, ou bien parmi les postulants qui ont été préalablement agréés par le Gouvernement Central et que celui-ci envoie en Afrique pour y recevoir une nomination définitive.

Quelle que soit l'autorité dont ils tiennent leur nomination, les agents reçoivent du Gouverneur-Général une commission constatant les fonctions qu'ils ont à remplir et la date de leur installation.

Cette commission doit être restituée lorsque les agents cessent leurs fonctions ou retournent en Europe.

2. Quel que soit le service pour lequel les fonctionnaires ou agents ont été admis dans l'Administration de l'Etat, il est loisible au Gouverneur-Général, lorsque l'intérêt de l'Etat l'exige, de les attacher à un service différent et de les charger, soit exclusivement, soit accessoirement, de toutes les fonctions pour lesquelles il juge qu'ils ont les aptitudes voulues.

La disposition qui précède ne s'applique pas aux agents figurant dans les catégories (A) à (E) inclusivement, fixées par l'Article 1er du Décret du 6 octobre, 1888, qui, avant leur départ d'Europe, auraient reçu expressément une destination spéciale.

Le Gouverneur-Général peut charger les Commissaires de district éloignés ou les Chefs d'expédition de répartir les services entre les agents sous leurs ordres.

Les emplois gérés accessoirement par un fonctionnaire, en exécution d'un ordre du Gouverneur-Général, ne donnent lieu à aucune rémunération supplémentaire et, à moins de dispositions spéciales, ne modifient pas le rang hiérarchique qu'il occupe.

3. Sauf les exceptions stipulées expressément par le Secrétaire d'Etat, les fonctionnaires et agents nommés ou agréés pour faire partie du personnel de l'Etat en Afrique contractent, par le seul fait de leur acceptation, l'obligation:

(1.) De servir l'Etat en Afrique pendant au moins trois ans, sauf le cas où il serait dûment constaté, par un médecin de l'Administration ou agréé par elle, que leur santé ne leur permet plus de séjourner au Congo.

(2.) De consacrer en Afrique tout leur temps et toute leur activité au service de l'Etat, de remplir leurs fonctions avec un zèle et un dévouement absolus, d'observer et de faire respecter, dans la sphère de leurs attributions, les Décrets et les Règlements en vigueur dans l'Etat Indépendant, de se conformer ponctuellement aux instructions qui leur seront données pour l'exécution de leur service, et d'obéir, dans l'accomplissement de celui-ci, aux Chefs sous les ordres desquels ils seront placés.

4. De même, par le seul fait de leur acceptation, les fonctionnaires et agents de tout rang s'engagent:

(1.) A ne faire le commerce, ni pour leur compte ni pour le compte de tiers, et à ne s'intéresser en Afrique, ni directement ni indirectement, dans aucune entreprise commerciale ou autre, étrangère au service de l'Etat;

(2.) A n'accepter des maisons de commerce ou des particuliers avec lesquels ils peuvent être en relations pour l'exécution de leur service, aucune rémunération ni rétribution, à quelque titre que ce soit;

(3.) A ne pas communiquer à des personnes étrangères à l'Administration et à ne pas publier, sans autorisation spéciale, des renseignements relatifs à des affaires de l'Etat ou à des affaires de particuliers dont ils auraient connaissance en raison de leurs fonctions officielles.

L'obligation de garder le secret professionnel subsiste, comme engagement d'honneur, même après que les Agents ont quitté le service de l'Etat Indépendant.

Démissions.

5. L'Agent qui veut quitter définitivement le service de l'Etat Indépendant après le terme de trois ans stipulé au (1) de l'Article 3 doit envoyer par voie hiérarchique, s'il se trouve au Congo, sa démission écrite au Gouverneur-Général. Il reste en fonctions jusqu'à ce que, par l'acceptation de sa démission, il ait été régulièrement relevé de son emploi.

6. Le Gouverneur-Général peut, d'office, renvoyer en Europe tout agent qu'il jugerait, à un titre quelconque, impropre au service d'Afrique, et ce sans attendre l'expiration du terme fixé au (1) de l'Article 3.

7. L'agent qui se trouve en congé en Europe (Article 8 et suivants) doit, s'il renonce à retourner en Afrique, envoyer sa démission écrite au Secrétaire d'Etat.

Le Secrétaire d'Etat peut également démissioner d'office l'agent qui se trouve en congé en Europe, s'il juge que, pour une raison quelconque, cet agent ne peut plus être employé en Afrique.

Congés.

8. Après l'expiration du terme fixé à l'article 3 (1), les fonctionnaires et agents ont droit à un congé d'une durée maximum de six mois, leur permettant de revenir en Europe.

Ils ne peuvent toutefois jouir de ce congé qu'à la condition d'en faire la demande au Gouverneur-Général suffisamment à l'avance pour que celui-ci puisse les faire remplacer dans le poste qu'ils occupent. Au besoin, le Gouverneur-Général peut différer leur départ jusqu'à ce qu'il ait pu assurer le service.

9. Le Gouverneur-Général peut accorder le congé avant l'expiration du terme indiqué à l'Article 3 (1) s'il le juge utile dans l'intérêt du service ou nécessaire à la santé de l'agent.

10. Des prolongations de congé au delà du terme de six mois peuvent être accordées en Europe par le Secrétaire d'Etat, s'il juge que la santé de l'agent l'exige.

11. La durée du congé est comptée à partir de la date fixée pour l'embarquement du fonctionnaire au Congo en destination de l'Europe, jusqu'à la date fixée pour son embarquement en Europe en destination du Congo

12. Dans les huit jours de son arrivée en Europe, le fonctionnaire doit, à moins de permission spéciale, se présenter au siège du Département auquel il appartient.

Il doit, pendant la durée de son congé, se tenir à la disposition du Secrétaire d'Etat, qui peut le charger de collaborer aux travaux de son Département ou lui donner une besogne ou une mission spéciale.

13. Le fonctionnaire ou l'agent qui ne se conformerait pas à l'Article précédent, ou qui ne retournerait pas au Congo à l'expiration de son congé, serait considéré comme démissionnaire et perdrait ses droits au traitement de congé alloué par l'Article 27 ci-après.

14. Lorsqu'un fonctionnaire désire aller passer son congé ailleurs qu'en Europe, le Gouverneur-Général peut y consentir; il règle dans ce cas les conditions auxquelles le congé est accordé, en s'écartant toutefois le moins possible des dispositions relatives aux congés passés en Europe.

Frais de Voyage.

15. L'Etat prend à sa charge les frais de voyage de Bruxelles, ou du pays où l'agent a été engagé, jusqu'au Congo, des fonctionnaires ou agents nouvellement nommés ou agréés conformément au deuxième alinéa

de l'Article 1er, et des agents qui retournent au Congo à l'expiration d'un congé passé en Europe.

16. L'Etat prend également à sa charge les frais du voyage de retour, du Congo jusqu'à Bruxelles, mais seulement dans les cas suivants:

(1.) Si l'agent a obtenu sa démission, conformément à l'Article 5, après l'expiration du terme fixé au premier alinéa de l'Article 3;

(2.) S'il a été démissionné d'office comme impropre au service d'Afrique, par application de l'Article 6, et s'il revient directement en Europe après avoir reçu sa démission;

(3.) S'il revient en congé en vertu des Articles 8 ou 9.

L'agent révoqué ou démissionné à sa demande avant l'expiration du terme fixé au premier alinéa de l'Article 3 n'a pas droit au rapatriement aux frais de l'Etat.

17. Les frais de voyage que l'Etat prend à sa charge dans les cas prévus par les deux Articles précédents comprennent exclusivement:

(1.) Le ticket de passage à bord des bateaux entre l'Europe et le Congo, par la voie que désigne l'autorité compétente, mais non des dépenses personnelles, de quelque nature qu'elles soient, que l'agent fait pendant son séjour à bord;

(2.) Une indemnité pour le voyage en Europe, depuis Bruxelles, ou la localité étrangère où l'agent a été engagé, jusqu'au point d'embarquement, ou depuis le port de débarquement en Europe jusqu'à Bruxelles.

Aucune indemnité spéciale de séjour n'est due au fonctionnaire du chef de l'obligation lui imposée par le premier paragraphe de l'Article 12.

18. L'indemnité de voyage mentionnée au deuxième alinéa de l'Article qui précède est fixée de la manière suivante, les taux indiqués étant censés comprendre, outre les frais de transport du fonctionnaire et de ses bagages, les dépenses d'hôtel et tous autres frais quelconques supportés au cours du voyage:

Voyages.	1er Classe.	2e Classe.
	Fr. c.	Fr. c.
De Bruxelles à Anvers et vice versâ .	15 00	11 00
„ à Rotterdam „ .	30 00	22 00
„ à Flessingue „ .	—	—
„ à Lisbonne „ .	500 00	350 00
„ à Liverpool „ .	125 00	100 00
„ au Havre „ .	—	—
„ à Hambourg „ .	—	—

Si l'agent était embarqué ailleurs qu'en Belgique, ou s'il devait s'embarquer ou débarquer en Europe ailleurs que dans l'un des ports indiqués ci-dessus, l'indemnité serait fixée par décision spéciale de l'autorité compétente.

Il appartient également à l'autorité compétente de déterminer la classe dans laquelle le fonctionnaire effectuera le voyage.

19. Le Secrétaire d'Etat à Bruxelles et le Gouverneur-Général au Congo indiquent respectivement, à chaque fonctionnaire ou agent, la voie qu'il doit suivre pour se rendre au Congo et pour revenir en Europe.

Ils peuvent autoriser le fonctionnaire qui en fait la demande à suivre telle autre voie qui serait mieux à sa convenance personnelle, mais, dans ce cas, le supplément de dépenses qui en résulte est à la charge exclusive de l'agent, et l'indemnité mentionnée au deuxième alinéa de l'Article 17 est liquidée en conséquence.

Traitement des Agents en Afrique.

20. Le traitement alloué aux agents en Afrique est fixé par le Secrétaire d'Etat.

21. Indépendamment du traitement, l'Etat fournit à ses agents en Afrique le logement et la nourriture dans les conditions que comportent les circonstances et les localités où ils doivent séjourner.

Le Gouvernement se réserve de remplacer la nourriture par une indemnité dont il fixera éventuellement le montant.

22. Aucune augmentation de traitement n'est accordée aux fonctionnaires ou agents qui laissent à désirer, sous un rapport quelconque, dans l'accomplissement de leurs devoirs.

23. Le traitement cesse d'être dû, pour les agents démissionnaires, démissionnés ou révoqués, à partir du jour de la cessation des fonctions. (Voir pour les agents révoqués, l'Article 1er, litt. (D), du Déret Disciplinaire du 16 avril, 1887.)

Toutefois, dans les cas prévus par les Articles 5 et 6, les fonctionnaires et agents démissionnaires ou démissionnés, s'ils reviennent directement en Europe, jouissent de leur traitement d'Afrique jusqu'à la date de leur embarquement au Congo, et de la moitié de ce traitement jusqu'à la date de leur débarquement en Europe; ce demi-traitement n'est dû, en aucun cas, au delà du trentième jour qui suit la date d'embarquement.

24. Pour les employés décédés au service de l'Etat, le traitement cesse à partir du jour du décès.

25. Des dispositions spéciales règlent le mode de liquidation du traitement des fonctionnaires.

Le montant de ce traitement ne leur est dû et ne leur est payé, pendant qu'il sont au service de l'Etat, que jusqu'à concurrence de 50 pour cent, sauf exception approuvée, dans chaque cas, par le Secrétaire d'Etat ou son délégué.

Toutes les sommes leur revenant à titre de traitement ou autrement, rendues payables sur la caisse du Trésorier-Général à Bruxelles, sont versées intégralement entre les mains des mandataires que ces agents ont constitués au moment de leur engagement. Il n'y a d'exception à cette règle absolue que dans le cas où l'Etat aurait des reprises à exercer à son profit.

En conséquence, il ne sera donné aucune suite à des autorisations ou demandes ayant pour objet des retenues à faire sur les sommes dues

aux agents en Afrique, que ces autorisations ou ces demandes émanent des agents eux-mêmes ou des personnes envers lesquelles ils auraient contracté des engagements pécuniaires.

26. Les agents de l'Etat n'ont droit qu'à leur traitement et aux indemnités prévues par le présent Règlement. Toutes autres indemnités ou allocations, de quelque nature qu'elles soient et quel que soit le fonctionnaire qui les ait octroyées, ne sont dues qu'à la condition que les agents remplissent complètement leur terme de service et pour autant que le Gouvernement juge, à l'expiration de ce terme, qu'ils se sont acquittés de leurs devoirs envers l'Etat à la satisfaction du Gouvernement.

Traitement de Congé.

27. Les agents qui sont en congé conformément aux Articles 8 et suivants jouissent, pour la durée de ce congé (voir Article 11), d'un traitement dont le Secrétaire d'Etat détermine le montant dans la limite des crédits disponibles au Budget.

Ce traitement de congé n'est liquidé qu'après qu'ils se sont réembarqués pour le Congo; il est versé alors à leur réserve.

28. Si l'agent donne sa démission pendant la durée de son congé, ou s'il est considéré comme démissionnaire en vertu de l'Article 13, il perd le bénéfice du traitement de congé depuis la date de son débarquement en Europe.

Partie réservée du Traitement d'Afrique.

29. Le produit de la retenue de 50 pour cent opérée sur les traitements d'Afrique, conformément à l'Article 25, est placé par les soins de l'Administration Centrale à Bruxelles, à la Caisse d'Epargne de l'Etat.

30. Sont prélevées sur la réserve de chaque agent ou sur la partie du traitement destinée à constituer cette réserve, les sommes indiquées ci-après, pour autant que ces sommes ne puissent pas être retenues sur la partie du traitement mise à la disposition de l'intéressé, conformément au deuxième alinéa de l'Article 25:

(1.) Le montant des avances que l'Etat aura faites à un agent pour son équipement ou pour un autre usage personnel;

(2.) Les sommes dont l'agent deviendrait redevable à l'Etat à un titre quelconque, par suite de responsabilités encourues dans l'exercice de ses fonctions. (Voir le dernier alinéa de l'Article 35.)

31. Lorsque le fonctionnaire revient en congé, le montant de sa réserve est mis à sa disposition, après qu'il a été constaté par le Secrétaire d'Etat qu'il ne peut plus y avoir aucun prélèvement à faire, par application de l'Article 29.

32. Lorsqu'un fonctionnaire meurt pendant qu'il est au service de l'Etat Indépendant ou avant d'avoir reçu le solde de sa réserve, ce solde est payé à ses héritiers, sur production de telles pièces justificatives

que le Secrétaire d'Etat juge nécessaires et conformément aux stipulations du Décret du 28 décembre 1888, et de l'Arrêté du 31 juillet 1891.

33. La réserve avec ses intérêts accumulés constitue une part différée du traitement dont l'Etat reste seul propriétaire légal aussi longtemps qu'elle n'a pas été remise à l'agent ou à ses héritiers.

Les agents ni leurs représentants n'ont donc de ce chef, envers l'Etat du Congo, aucun droit susceptible de cession, de saisie ou d'un recours juridique quelconque.

L'Administration Centrale de l'Etat statue seule et sans recours sur toutes les questions auxquelles la constitution et la liquidation de la réserve de chaque agent peuvent donner lieu.

Etoile de Service.

34. L'Etoile de service est destinée à récompenser les agents qui se sont acquittés de leurs devoirs au Congo à la satisfaction du Gouvernement. Elle n'est pas accordée à ceux qui ont subi une punition marquante ou qui ont été frappés d'une condamnation judiciaire que le Secrétaire d'Etat estime devoir entraîner la privation de cette récompense.

Sont considérées comme punitions marquantes, la retenue du traitement au-dessus de quinze jours et les mesures disciplinaires mentionnées aux littera (C) et (D) du Décret du 16 avril 1887.

En outre, l'Etoile de service ne sera pas décernée à ceux qui ne se seront pas conformés aux instructions du Gouvernement et spécialement aux prescriptions du présent Règlement.

Punitions.

35. Un Décret du 16 avril 1887, et un Arrêté du Gouverneur-Général du 20 juin 1887, règlent les punitions qui peuvent être infligées aux agents et la procédure à suivre en matière disciplinaire.

Les retenues de traitement ou de salaire prévues par le Décret du 16 avril 1887, sont opérées sur la partie du traitement ou du salaire qui est payable en Afrique (Article 7 de l'Arrêté du 20 juin 1887).

En cas de révocation d'un agent, entraînant la perte de la moitié du traitement ou du salaire pendant la dernière année passée au service (Article 1er, littera (D), du Décret Disciplinaire), la somme qui doit être remboursée de ce chef à l'Etat est prélevée sur la réserve constituée au nom de l'agent révoqué.

Intérims.

36. Les agents chargés par le Gouverneur-Général de gérer intérimairement des emplois vacants, ou dont les titulaires sont momentanément absents ou empêchés, jouissent pendant la durée de leur intérim de la même autorité que les titulaires (Article 4 du Décret Organique du 16 avril 1887); leur rang hiérarchique est déterminé par le Gouverneur-Général (Article 2 du Décret du 6 octobre 1888); mais ils n'ont droit, dans aucun cas, au traitement afférent aux fonctions qu'ils remplissent par intérim.

Dispositions Finales.

37. Les dispositions du présent Règlement, à l'exception des prescriptions de l'Article 4, ne sont pas applicables au Gouverneur-Général, au Vice-Gouverneur-Général, ni aux Inspecteurs d'Etat.

38. Les agents que le Gouverneur-Général engage au Congo ou à la côte d'Afrique ne tombent sous l'application des Articles 6 à 33 que dans la mesure qui sera déterminée par le dit Gouverneur-Général, lors de leur admission au service de l'Etat.

Bruxelles, le 10 octobre 1894.

Edm. van Eetvelde, Secrétaire d'Etat.

102.

ETAT INDÉPENDANT DU CONGO, GRANDE-BRETAGNE.

Correspondance concernant l'administration de l'Etat Indépendant du Congo, du 4 juillet 1904 au 15 décembre 1904.

Parliamentary Papers. Presented to both Houses of Parliament by Command of His Majesty. January 1905. (Cd. 2333.)

Sir C. Phipps to the Marquess of Lansdowne.—(Received July 5.)

Brussels, July 4, 1904.

My Lord,

I Communicated to the Belgian Minister for Foreign Affairs your Lordship's despatch of the 6th ultimo, and its inclosure. In the course of a conversation which ensued, Baron de Favereau, after remarking that he would not speak authoritatively on administrative questions connected with the Independent State, observed that he had found the Congo Government fully alive to the fact that an inquiry into the questions affecting the Congo Administration raised by Mr. Casement's Report was expedient, and he had every confidence that such inquiry would be impartial in character.

I remarked that, in my belief, those who had criticized the Congo State with such conviction would never declare themselves satisfied, were the Commission of Inquiry to be composed exclusively of persons in the direct employ of the Congo State; at any rate, I hoped the considerable non-Belgian element represented in the Congo would take part in any inquiry.

His Excellency expressed his conviction that those who attacked the Congo State with such interested bitterness would never be silenced, but observed that the Caudron judgment and other sentences passed on delinquent employés might well establish confidence in the independence and impartiality of the superior State officials. I said that I should be glad

to think that such a man as Baron Nisco, one of the Judges of Appeal, might take part in any inquiry, and that, when so many persons of different nationalities were to be found in the Congo, it ought not to be difficult to constitute an inquiry the result of which ought to statisfy even those with prejudiced views.

I habe, &c.

(Signed) *Constantine Phipps.*

Sir C. Phipps to the Marquess of Lansdowne. — (Received August 1.)

Brussels, July 31, 1904.

My Lord,

I Have the honour to transmit to your Lordship a communication which was handed to me yesterday by M. de Cuvelier. It contains notes on the Memorandum inclosed in your Lordship's despatch of the 6th ultimo, and a Decree, dated the 23rd instant, giving the names of the members of the Commission of Inquiry and the attributions granted to them.

Your Lordship will observe that the Congo Government have appointed Dr. Edmond de Schumacher, Councillor of State and Head of the Department of Justice of the Canton of Lucerne, as the third member of the Commission.

I have, &c.

(Signed) *Constantine Phipps*

Inclosure.

Memorandum.

La dépêche de Lord Lansdowne du 6 Juin, 1904, et le Mémorandum qui y est annexé, publiés au „Parliamentary Paper," „Africa No. 7 (1904)," et transmis aux Puissances Signataires de l'Acte de Berlin, ont été communiqués par son Excellence Sir Constantine Phipps au Gouvernement de l'Etat du Congo et ont fait l'objet de son examen.

Le Mémorandum annexé à cette dépêche trouve sa réponse dans le document ci-joint.

Lord Lansdowne, exposant ses vues au sujet de la communication du texte complet du Rapport de Mr. Casement, veut bien préciser qu'il la subordonne à ce que le Gouvernement du Congo „will take every means to secure that the witnesses, if their names should be divulged, will suffer no harm in their property or persons from the unlawful violence of those to whose desire for revenge they may be exposed." Le Gouvernement du Congo considère naturellement que la plus grande liberté doit être assurée aux témoins pour qu'ils produisent leurs témoignages en toute indépendance et en toute sécurité; que tout acte ou que toute tentative pour suborner des témoins doit être poursuivi et puni; qu'enfin tout acte ou toute tentative de représailles sur la personne ou les biens des témoins,

de la part de ceux contre lesquels ils auront déposé, doit être atteint des peines édictés par la loi. Ce sont là les principes de droit commun, et reconnus, pour employer les termes de la dépêche du 6 Juin, par toute Administration civilisée; ce sont ceux qui sont d'application au Congo.

Mais il n'est pas plus au pouvoir de l'Etat du Congo que de tout autre, en pareille occurrence, de garantir les témoins contre n'importe quel acte de mauvais gré. De tels actes sont toujours possibles, et en tous pays où ils se produisent il n'est d'autre mesure prise que de les frapper d'une répression immédiate. Ce que l'Etat du Congo peut garantir, et il en prend l'entière responsabilité, c'est qu'au cas où semblable éventualité se présenterait dans l'occurrence, les délinquants seraient punis sans aucun délai, conformément à la loi, en vue précisément de protéger les témoins, aussi bien ceux „who gave evidence to Mr. Casement" que tous autres qui seront entendus.

En ce qui concerne l'enquête qu'annonçaient les „Notes" du 12 Mars dernier, le Gouvernement de Sa Majesté Britannique se rencontre avec celui de l'Etat du Congo, en exprimant le sentiment qu'elle soit minutieuse et impartiale. C'est de cette préoccupation dominante que s'est inspiré le Gouvernement de l'Etat en instituant la Commission appelée à poursuivre cette enquête. Le Décret du 24 Juillet, 1904 — dont copie est ci-jointe — a confié les fonctions de Commissaires à M. Edm. Janssens, Avocat-Général à la Cour de Cassation de Belgique, dont la haute situation et la compétence sont reconnus; à M. le Baron Nisco, qui remplit depuis plusieurs années les fonctions de Président du Tribunal d'Appel de Boma avec une impartialité et une indépendance hors de discussion; enfin, à M. le Dr. Edm. de Schumacher, Conseiller d'Etat et Chef du Département de la Justice du Canton de Lucerne.

Une copie de la présente note et de ses Annexes sera transmise aux Puissances auxquelles a été envoyée copie de la dépêche de Lord Lansdowne du 6 Juin, 1904.

Bruxelles, le 30 Juillet, 1904.

Extrait du „Bulletin Officiel de l'État Indépendant du Congo", No. 7, Juillet 1904.

Léopold II, Roi des Belges, Souverain de l'État Indépendant du Congo,

A tous présents et à venir, Salut:

Considérant qu'il est allégué que, en certaines parties du territoire, des actes de mauvais traitement seraient commis à l'égard des indigènes, soit par des particuliers, soit par des Agents de l'État;

Qu'il importe qu'une enquête complète et impartiale soit faite sur les faits signalés;

Sur la proposition de notre Secrétaire d'État,

Nous avons décrété et décrétons:

Article 1er. Il est institué une Commission spéciale, composée de trois membres, pour procéder à la dite enquête, conformément aux instructions de notre Secrétaire d'État.

Art. 2. Sont nommés pour faire partie de la Commission

(1.) M. Edm. Janssens, Avocat-Général à la Cour de Cassation de Belgique, Président;

(2.) M. le Baron Nisco, Président ad interim du Tribunal d'Appel de Boma;

(3.) M. le Dr. Edm. de Schumacher, Conseiller d'État et Chef du Département de la Justice du Canton de Lucerne.

Il sera pourvu par notre Secrétaire d'État à la nomination du Secrétaire de la Commission.

Art. 3. Il est conféré par la présente disposition aux membres de la Commission, agissant collectivement ou individuellement, les pouvoirs attribués par la loi aux officiers du Ministère Public à l'effet d'entendre tous témoignages utiles à la manifestation de la vérité, dresser procès-verbaux des dépositions, et saisir, le cas échéant, les Tribunaux des faits délictueux qui seraient relevés par l'enquête. La Commission prendra, conformément aux lois, les mesures qu'elle jugera nécessaires pour que les témoignages se produisent en toute liberté, et déférera aux Tribunaux tout acte ou tentative de subornation de témoin, ou toute atteinte à leur personne ou à leurs biens dont les témoins seraient l'objet de la part de ceux contre lesquels ils auraient déposé. Elle pourra requérir la production de tous documents administratifs ou judiciaires se rapportant à l'objet de sa mission, et qu'elle jugerait utiles à ses investigations.

Art. 4. En cas d'empêchement de l'un des membres, l'enquête se continuera valablement par les deux autres Commissaires.

Art. 5. Il sera fait par la Commission à notre Secrétaire d'État rapport sur ses opérations et les résultats de ses travaux en signalant éventuellement les améliorations utiles, et en formulant, au cas où l'enquête aurait constaté des abus, les propositions sur les meilleurs modes d'y mettre fin, en vue du bon gouvernement des territoires et du bien-être de leurs habitants.

Art. 6. Notre Secrétaire d'État est chargé de l'exécution du présent Décret.

Donné à Bruxelles, le 23 Juillet, 1904.

(Signé) *Léopold.*

Par le Roi-Souverain:
Au nom du Secrétaire d'État:
Les Secrétaires-Généraux,
(Signé) Chevalier De Cuvelier.
H. Droogmans.
Liebrechts.

Annex.

Notes sur le Mémorandum joint à la Dépêche de Lord Lansdowne du 6 juin, 1904.

Le Mémorandum explique que Mr. Casement a été à même de chiffrer la dépopulation de certaines régions en raison de sa connaissance personnelle de ce qu'était la population dans les années antérieures, et de ce qu'elle lui apparut („appeared") être à la date de sa dernière visite. On peut penser que cet unique facteur n'est pas suffisant pour étayer un recensement sérieux. Déjà, les agents locaux qui ont eu connaissance du Rapport de Mr. Casement contestent certains de ses chiffres; c'est ainsi que le Chef de Poste de Bikoro (Lac Mantumba) a constaté que la population des villages des rives du lac est diminuée, par suite des ravages de la variole, non pas, comme le dit le Rapport (p. 31), de 60 ou 70 pour cent, mais de 30 pour cent environ. Le Commissaire du district de l'Equateur fait remarquer que le Consul, en ne faisant que toucher Irebu, n'a pu se rendre compte de ce que les tribus d'Irebu, revenues sur la rive de l'État (Rapport, p. 30), s'y sont réinstallées en de nouveaux emplacements, et, par conséquent, la phrase du Rapport „this village had entirely disappeared" ne peut être entendue en ce sens que la population elle-même aurait totalement disparue. Que cette région d'Irebu n'est pas dépeuplée se déduit du fait, consigné dans le Rapport (p. 30), que de très grandes quantités de „native food" y sont trouvées. Ces détails ne sont donnés que pour confirmer l'appréciation des notes du 12 mars, 1904, à savoir que la valeur des informations du Rapport reste subordonnée à une vérification minutieuse.

Rencontrant cette autre cause d'une apparente dépopulation — c'est-à-dire la facilité avec laquelle se déplacent les agglomérations indigènes — le Mémorandum estime qu'une importance trop grande a été donnée à cette considération, puisque, dit-il, „more than one reference in the Consul's Report shows that the natives are not allowed to leave their own districts." Le Consul lui-même cependant, dans son Rapport, tire argument des exodes et des déplacements d'indigènes, ce qui se concilie mal avec les entraves qui seraient apportées à la liberté de leurs mouvements. La situation est exposée par le Gouverneur-Général en ces termes:

„Une question qui a été souvent agitée, et que le Gouvernement Local vient encore de soulever, est celle du déplacement des populations. Il est connu que les tribus natives ont une tendance marquée à changer aisément de résidence, et ce pour des raisons qui, le plus souvent, ne relèvent nullement de l'action administrative. On voit des villages se déplacer parce qu'il se produit un décès dont les causes sont inexpliquées — qu'un féticheur en a ainsi ordonné — que les pluies ont été trop abondantes ou la récolte mauvaise — ou enfin qu'il a été constaté des cas de maladie du sommeil ou de variole. Ces déplacements le long des rives du fleuve ont parfois créé l'impression, pour un observateur superficiel, que la population avait diminué ou disparu. Les inconvénients résultant de ces déplacements continuels sont patents. Il en résulte, sur un même point, une accumulation

de populations trop nombreuses pour que leur subsistance soit assurée. Les indigènes, dépossédés par les nouveaux venus des terres dont ils avaient la jouissance, se défendent par des moyens souvent violents; l'ordre et la tranquillité publics s'en trouvent compromis, et c'est là une des causes des luttes de villages à villages ou de tribus à tribus, luttes intestines dont, ailleurs aussi, on constate l'effet désastreux sur le chiffre de la population, comme par exemple au Soudan, pour lequel les données du Rapport de Lord Cromer en 1903 ne sont que trop concluantes."

Contrairement à ce que ferait penser le Mémorandum, il n'a jamais été dit que les affirmations des natifs ne fussent pas un élément à prendre en considération; mais ce qui sera affirmé et attesté par quiconque a été en rapport avec les indigènes, c'est que leurs déclarations doivent être soigneusement vérifiées et qu'à elles seules, elles ne suffisent pas pour former une conviction. „Une longue expérience des choses d'Afrique," dit le Gouverneur-Général, „m'a démontré avec quelle circonspection, pour ne pas dire avec quelle défiance, doivent être acceptées les affirmations des noirs. Leur mentalité spéciale les rend enclins à une facilité de mensonge qui déconcerte, et les Magistrats sont obligés de diriger leurs enquêtes et interrogatoires avec une réelle habileté et une patience inlassable pour parvenir à discerner la vérité au milieu des inexactitudes et des réticences des témoins de couleur. C'est dire combien les récits de faits à sensation colportés par les indigènes sont souvent dénaturés par eux, quand ils ne sont pas simplement inventés, et quels mécomptes se préparent ceux qui les accueillent trop aisément. Un exemple typique s'en trouve dans le cas d'un missionnaire Protestant qui s'est vu accusé par des indigènes d'avoir porté au mécanicien noir du steamer de la Mission des coups et blessures ayant occasionné la mort. L'instruction judiciaire mit à néant cette accusation qui avait été forgée de toutes pièces par les indigènes afin de se venger du missionnaire, avec lequel ils étaient en différend à propos d'une question de salaire. Et cependant, les indigènes accusateurs n'avaient pas un instant cessé, malgré les preuves du contraire, de maintenir leurs affirmations mensongères avec une persistance et une ténacité qui étaient de nature à faire impression. Il est à regretter que Mr. Casement n'ait pas été mis en garde contre les affirmations des noirs, notamment par cet incident, qu'il ne pouvait ignorer, puisque le missionnaire dont il s'agit l'accompagnait lors de l'enquête sur le cas d'Épondo, que des indigènes prétendaient aussi avoir été la victime d'un acte criminel."

Le Mémorandum cherche ensuite à contester que le Consul ait apparu aux populations indigènes comme une sorte de défenseur, tout disposé à accueillir leurs plaintes. „As a matter of fact," dit-il, „in many parts of the country the natives did not know who he was." Tel ne paraît pas être l'avis du Rév. Armstrong, de la Mission de Bonginda, dont le sentiment a d'autant plus de valeur qu'il s'est trouvé dans la région pendant tout le temps du voyage du Consul et qu'il a eu de fréquents rapports avec Mr. Casement. C'est de ce missionnaire qu'émane cette appréciation relevée dans les Notes, qui semble avoir échappé à l'attention du Mémorandum:

„The Consul was here at the time, and the people were much excited, and evidently thought themselves ‚on top.' We are accused of having told the people that the rubber work was finished. This is an entirely false accusation. They have got this idea into their heads of themselves, consequent, I suppose, upon the Consul's visit. The consequence has been that many villages of the Lulonga Company have not brought in rubber lately." Cette appréciation est évidemment en désaccord avec le caractère d'incognito que le Mémorandum attribue au voyage du Consul. En s'en tenant d'ailleurs aux seules déclarations du Rev. Armstrong — corroborées par d'autres témoignages — il est à constater que dans un interrogatoire du 13 septembre, 1903, il explique que des indigènes ont fait leurs réclamations à Mr. Casement parce „qu'ils l'ont pris comme étant une personnalité puissante," et il déclare le 15 septembre, „qu'avant l'arrivée de M. le Consul, jai vu une pirogue indigène qui montait à Bassankussu, et j'ai entendu moi-même que les gens de cette pirogue disaient que le grand chef des Anglais venait d'arriver à Lulonga." De tels détails démentent le rôle, presque effacé ou obscur, que le Mémorandum attribue maintenant au Consul, appréciation rendue difficilement acceptable lorsque l'on voit encore, par le Rapport lui-même (pp. 54 et suivantes), qu'à peine le Consul est arrivé à la Mission Protestante de Bonginda, toute une succession de groupes d'indigènes, et du village de L———, et du village de M———, et du village de N———, et du village de P———, viennent, en quelques heures, défiler devant lui. Le Rapport ajoute même: „other people were waiting desirous of speaking with me." Le fait que les indigènes venaient ainsi tout naturellement au Consul, alors que le Rapport affirme qu'ils évitaient de se plaindre à l'autorité, autorisait les Notes à dire que les indigènes considéraient le Consul comme le redresseur de leurs griefs, et cette coïncidence n'est pas sans paraître étrange de toutes ces venues d'indigènes arrivant le même jour, la même heure, au siège d'une Mission Protestante où venait précisément de s'installer le Consul.

La lettre de M. Spelier à M. Ellery, du 28 août, ne signifie nullement que la présence du Consul et ses opérations dans la contrée fussent inconnues. „Ne sachant pas," a déclaré M. Spelier le 6 novembre, 1903, „que c'était le Consul lui-même qui avait fait la visite (à Ivumi) et supposant que c'était un missionnaire, j'écrivis à M. Ellery, missionnaire d'Ikau, mon voisin, en lui disant que je me mettais à sa disposition pour l'éclairer et lui démontrer que les plaintes des indigènes n'avaient aucun fondement. Il me répondit que ce n'était pas un missionnaire, mais le Consul lui-même qui avait fait un tour d'inspection et qu'il aurait été enchanté de me voir à son prochain passage à Bokakata. Quelques jours après, le Consul passa par Bokakata mais ne s'arrêta pas." M. Spelier n'ignorait donc pas que Mr. Casement se trouvait dans la région, et si réellement les indigènes eux-mêmes d'Ivumi n'ont pas connu préalablement la venue du Consul, il a fallu les circonstances exceptionnelles que Mr. Casement énonce à la page 46 de son Rapport, reconnaissant par là que son arrivée n'était pas toujours „quite unexpected" et „unpreceded by any rumour of his coming."

Le Mémorandum conteste qu'il puisse être tiré aucune conclusion des relations continues et presque exclusives que le Consul a eues avec les Missions Protestantes. Mr. Casement semble en avoir pensé autrement, puisque son Rapport s'est appliqué à ne faire aucune mention de ses points de contact avec les missionnaires de la Lulonga, et que, même dans certains des documents officiels annexés à son Rapport, et publiés au „Parliamentary Paper," se sont trouvés omis les passages d'où résultait la coopération des missionnaires de Bonginda à ses investigations. Étant connu que les accusations dirigées contre l'État émanent de missionnaires Protestants, il est à se demander s'ils étaient bien les collaborateurs indiqués pour que le Consul „come to an independent judgment on the conditions of native life," et à cet égard, il est noté que, selon le Mémorandum, le procédé suivi dans le cas Épondo ne fut pas exceptionnel et que „on several occasions, Mr. Casement had American missionaries with him during his visits to the natives." Il n'a jamais été fait grief à Mr. Casement de ne pas, comme dit le Mémorandum, „place himself under the guidance or conduct of local authorities," mais ce restera le vice indélébile de son enquête de ne pas avoir été contradictoire, d'avoir enregistré l'accusation sans acter la défense et d'avoir conclu sans aucune „cross-examination."

En dépit de l'effort fait par le Mémorandum pour atténuer l'importance de cet incident rappelé dans les Notes — des indigènes à Bonginda insultant un Agent Européen pendant le séjour du Consul en cette localité — il n'en conserve pas moins sa signification. Le Mémorandum s'appuie sur des détails, éclaircis par la suite, touchant les fonctions de l'Agent injurié, et le moment précis où l'incident se serait produit; le fait reste que, chose sans précédent dans la région avant le voyage du Consul, un Agent Européen personnifiant l'élément blanc vis-à-vis des populations indigènes, peu importe qu'il appartînt au personnel d'une Société Commerciale, s'est vu outragé par des indigènes, en présence de missionnaires Protestants; et la circonstance admise par le Mémorandum, que le fait s'est passé précisément pendant le séjour du Consul, en accentue le sens. Quant aux termes des insultes proférées, le Mémorandum signale que la version de l'Agent en cause diffère de celle de Mr. Armstrong; il n'est pas de raison d'admettre cette dernière, alors surtout que le Rév. Armstrong, ainsi du reste que son collègue, Mr. Steel, interrogés le 15 septembre, ont déclaré, dans leurs dépositions signées, qu'ils n'avaient pas compris les cris poussés par les indigènes.

A propos du cas Epondo, le Mémorandum constate d'abord que les Notes de l'Etat du Congo s'y étendent beaucoup plus longuement que ne l'a fait le Rapport du Consul. Cela s'explique aisément lorsqu'on sait que c'est la seule affaire sur laquelle le Consul a remis à l'autorité locale du district les procès-verbaux de son enquête. C'est donc aussi la seule sur laquelle cette autorité a pu immédiatement à son tour porter ses investigations, et c'est la seule sur laquelle le Gouvernement se soit trouvé documenté lors de la rédaction des Notes du 12 mars dernier. Cette circonstance met aussi en relief l'importance que le Consul attribuait à

l'affaire (importance que maintenant conteste le Mémorandum, nonobstant les citations du Consul lui-même, rappelées aux pages 8 et 9 des Notes); si réellement les faits, dont parle sa lettre au Gouverneur-Général du 4 septembre, s'étaient imposés à son attention avec la même importance que l'affaire Epondo, n'en aurait-il pas saisi immédiatement, sur place et sans délai, les autorités de Coquilhatville, comme il l'a fait pour cette seule et unique affaire?

En ce qui concerne les critiques formulées par le Mémorandum contre l'enquête judiciaire faite en cette affaire Epondo, il est à déclarer d'abord que le Gouvernement ne sait à quelle circonstance fait allusion l'affirmation du Mémorandum que l'enquête „sur une accusation dirigée contre un agent de la Société Lulonga a été conduite en partie par des agents de cette Société". C'est le 10 septembre, 1903, que Mr. Casement saisit de l'affaire, à Coquilhatville, M. le Commandant Stevens et le 11, ce dernier commissionnait l'officier de police judiciaire Braeckman, en résidence à Coquilhatville, pour procéder sur les lieux à une information préliminaire, ce qu'il fit les 12 et 13 septembre. Le 14 septembre, Kelengo, l'auteur présumé de la mutilation, était amené à Coquilhatville à la disposition du Parquet. Le Substitut du Procureur d'Etat y commence l'enquête. Il la continue ensuite à Mampoko et à Bonginda, où Mr. Casement avait renvoyé l'enfant estropié. On ne voit pas dans toute cette procédure, intervenir les agents de la Société de la Lulonga, autrement que comme témoins.

Le Mémorandum déclare que la rétractation du boy Epondo ne peut être tenue pour satisfaisante:

1. Parce qu'elle s'est produite pour la première fois à Mampoko, où se trouve la Direction de la Société „La Lulonga". Si le Mémorandum entend dire par là que cette rétractation a été influencée par des intéressés, une argumentation analogue pourrait faire remarquer que le boy n'a pas longtemps maintenu sa première version dès qu'il s'est trouvé en dehors de l'influence de la Mission de Bonginda. En présence des nombreux témoignages contraires aux dires d'Epondo, le Substitut a fait chose utile à la manifestation de la vérité, en le changeant de milieu et en le transportant à Mampoko, où l'appelait sans doute la nécessité des confrontations. Il ne peut, au surplus, être admis à aucun degré que l'enquête n'aurait pas conservé toute son impartialité, uniquement parce que le Substitut aurait opéré en la localité où la Compagnie Lulonga avait son centre principal.

2. Parce que les autorités elles-mêmes, ont dit le Mémorandum, demandé à Mr. Faris, une attestation supplémentaire de la rétractation du boy Epondo. Il faut remarquer que si ce boy a, le 16 octobre, été confié à ce missionaire Protestant, c'est que déjà, le 10 septembre précédent, M. le Consul l'avait conduit à cette même Mission de Bolengi. Il ne résulte pas de la déclaration du Rév. Faris, du 18 octobre, 1903, que cette déclaration lui ait été demandée. Le point importe d'ailleurs peu en quelles circonstances le missionnaire Faris a fait cette déclaration; ce qui s'impose, c'est que la déclaration de ce missionnaire est l'expression de la

vérité, ce que ne peut contester et ne conteste pas le Mémorandum, et que par conséquent l'enfant — qui, dès le lendemain du jour où il avait quitté la Mission de Bonginda, avait donné la version réelle de son accident — n'a cessé de la maintenir par la suite, alors même qu'il ne pouvait avoir aucun rapport avec les agents de la Société Lulonga. Il est à noter qu'il a fait la même rétractation à Mgr. Derikx, Prélat des Prémontrés qui le rencontra à Coquilhatville, et que Mr. Faris, dans une lettre postérieure du 31 décembre, 1903, livrée à la publicité, écrit que l'enfant qui, à ce moment se trouvait depuis plus de deux mois à la Mission de Bolengi, en seul contact avec le Rév. Faris, n'a plus varié un instant dans ses affirmations, et „all efforts on my part," ajoute-t-il, „to ascertain . . . . the inducement, if any, to make the change of testimony were unavailing."

La valeur de la rétractation d'Epondo est mise en doute parce qu'il a déclaré que l'accident „lui était arrivé dépuis longtemps" alors, dit le Mémorandum, qu'au moment de la visite du Consul à Bosunguma, le 7 septembre, les blessures étaient incomplètement cicatrisées. L'examen médical auquel il a été procédé par le Dr. Mardiglia, a cependant abouti, le 12 octobre, 1903, à la conclusion que les blessures „dataient certainement d'un an et peut-être de plus encore.

L'argumentation du Mémorandum disant que „if the conclusions of Lieutenant Braeckman are accepted, the evidence on which they are founded should be also admissible," n'est pas acceptable puisque, précisément, ces conclusions, en raison des contradictions des témoignages „faisaient naître des soupçons assez graves sur la vérité des accusations".

Enfin on ne voit pas de contradiction entre le fait que le Chef Bofoko, primitivement interrogé par le Consul, a été entendu par le Substitut, et la constatation faite par ce dernier dans son Ordonnance que tous les indigènes qui avaient accusé Kelengo au Consul avaient pris la fuite: il en résulterait seulement que Bofoko a pu, après sa fuite, être retrouvé et ramené à Mampoko. Lorsque l'Ordonnance ajoute que „tous les efforts faits pour retrouver les témoins n'ont abouti à aucun résultat," elle parle évidemment en termes généraux de l'ensemble des témoins qui ont pris la fuite et qui n'ont pu être replacés collectivement à la disposition de la justice.

Le Mémorandum prend acte des témoignages produits dans l'affaire Epondo pour qualifier la situation des indigènes de „abject condition," et cela parce que de ces témoignages il résulte l'affirmation très nette du désir chez le noir de ne pas travailler. Ce sentiment de paresse, commun aux nègres, est chose connue, et qu'il s'agisse de récolter le caoutchouc, de se livrer au portage ou de cultiver la terre, l'indigène, il n'est pas à le méconnaître, préférerait ne pas avoir à travailler et ne pas être soumis à l'impôt. Le Mémorandum trouve une preuve de la malheureuse condition des indigènes dans le chiffre des exportations de l'Etat, supérieur à celui des importations. L'argument perd immédiatement de sa valeur quand on sait que les marchandises exportées sont renseignées aux statistiques

à leur prix de vente sur les marchés d'Europe et que les importations sont renseignées à leur valeur, non pas au lieu de consommation, mais au port d'importation. Selon le raisonnement du Mémorandum, plus le prix des produits exportés est rémunérateur, plus pénible serait la condition du producteur indigène. „Au reste," comme le dit le Gouverneur-Général, „le prix des marchandises données en échange à l'indigène est, en Afrique comme partout, déterminé par la loi de l'offre et la demande, et tel objet de pacotille peut avoir pour le nègre d'Afrique une toute autre valeur que son prix indiqué sur les marchés d'Europe. C'est l'un des bénéfices, parfaitement légitimes, du commerce d'importation pénétrant dans les pays nouveaux."

Lorsqu'on tire, des chiffres des exportations, la conclusion que les indigènes se trouveraient exploités en raison du rendement progressif du caoutchouc, on oublie que l'exportation de tous les produits, autres que le caoutchouc, tels que les arachides, cacao, café, huile de palme, noix palmistes, &c., est également en progression. En prenant les chiffres de l'année 1902, on constate même que les exportations de caoutchouc sont en diminution sur celles de l'année 1901, tandis que se développe, dit le Rapport du 30 Avril, 1903 („Bulletin Officiel," 1903, p. 65), le négoce des autres produits indigènes. Le Mémorandum n'a pas saisi que ces termes qu'il cite; „Le négoce des autres produits indigènes" visent précisément tous les produits autres que le caoutchouc. En réalité, comme le dit le Gouverneur-Général, le reproche d'inhumanité se trouve démenti par la prospérité économique croissante, car il serait au moins étrange qu'un régime qui va, affirme-t-on, jusqu'à dépeupler la contrée, produise en même temps ce résultat inattendu d'accroître le chiffre général des exportations".

En ce qui concerne les critiques relatives à l'importation des armes à feu, il suffira de remarquer que les données officielles récentes ne confirment pas les appréciations du Mémorandum.

„L'importation des armes n'est pas anormale. Les fusils de système perfectionné — ce sont en général des armes de chasse ou de précision à l'usage personnel des importateurs — ont été déclarés au chiffre de 881 en 1901 et de 1,164 en 1902. Ces chiffres ne sont pas hors de proportion avec le nombre d'Européens résidant au Congo qui était en 1902, par exemple, de 2,365. Les fusils à piston importés étaient de 728 en 1901 et de 391 en 1902. Quant aux fusils à silex dont les accords internationaux ne permettraient pas d'interdire l'importation, les chiffres des années 1901 et 1902 sont en diminution sur celui des années précédentes. Des infiltrations d'armes ont été constatées par les frontières intérieures; d'un autre côté, il est affirmé que les fusils à silex, déclarés comme tels, sont transformés sur place en fusils à piston. L'autorité vise à détruire ceux de ces fusils qui sont trouvés en la possession des indigènes. C'est ainsi qu'il est recommandé aux chefs militaires d'exiger, lors de la fixation des conditions de paix, la remise par les indigènes de leurs fusils à piston qui sont ensuite détruits." — (Rapport du Gouverneur-Général).

Sir C. Phipps to the Marquess of Lansdowne.—
(Received August 9.)

(Extract.) Brussels, August 3, 1904.

In transmitting to your Lordship the July number of the „Bulletin Officiel du Congo“ it is necessary to call attention to the following:

Page 237 contains a Decree imposing some penalties against witnesses who may refuse to give evidence, as well as upon persons who may insult or maltreat witnesses in consequence of their depositions.

Inclosure.

Extract from the „Bulletin Officiel de l'Etat Indépendant du Congo“ for July 1904.

Code de Procédure Pénale et Code Pénal. Dispositions additionnelles.

Léopold II, Roi des Belges, Souverain de l'Etat Indépendant du Congo, à tous présents et à venir, Salut:

Sur la proposition de notre Secrétaire d'Etat,

Nous avons décrété et décrétons:

Article 1er. L'Article 22 du Décret du 27 Avril, 1899, est complété par la disposition suivante, qui le remplace:

„Les officiers du Ministère Public dresseront procès-verbal de toutes leurs opérations.

„Toute personne citée pour être entendue en témoignage sera tenue de comparaître et de satisfaire à la citation; sinon elle pourra y être contrainte par l'officier du Ministère Public, qui, à cet effet, sans autre formalité ni délai et sans appel, prononcera une amende qui n'excédera pas 100 fr., et pourra ordonner que la personne citée sera contrainte par corps à venir donner son témoignage.

„Le témoin ainsi condamné à l'amende sur le premier défaut et qui sur la seconde citation produira devant l'officier du Ministère Public des excuses légitimes, pourra être déchargé de l'amende.“

Art. 2: La disposition suivante est ajoutée au Code Pénal:

„51 bis. Les peines portées par les Articles 50 et 51 seront applicables dans le cas où l'on aura outragé ou frappé des témoins à raison de leurs dépositions.“

Art. 3. Notre Secrétaire d'Etat est chargé de l'exécution du présent Décret.

Donné à Bruxelles, le 15 juillet, 1904.

(Signé) *Léopold.*

Par le Roi-Souverain:
Au nom du Secrétaire d'Etat,
Les Secrétaires-Généraux,
(Signé) Chevalier de Cuvelier.
H. Droogmans.
Liebrechts

Extract from the „Code Pénal."

Section XIV. Des Outrages et des Violence envers les Dépositaires de l'Autorité ou de la Force Publique.

50. Est puni de six mois, au maximum, de servitude pénale et d'une amende de 25 fr. à 200 fr., ou d'une de ces peines seulement, celui qui a outragé par fait, paroles gestes ou menaces, un Magistrat, fonctionnaire ou agent de l'autorité ou de la force publique, dans l'exercice ou à l'occation de l'exercice de ses fonctions.

51. Celui qui a frappé un Magistrat, fonctionnaire ou agent de l'autorité ou de la force publique dans l'exercice ou à l'occasion de l'excercice de ses fonctions est puni de six mois, à deux ans de servitude pénale et d'une amende de 200 fr. à 1,000 fr., ou d'une de ces peines seulement.

The Marquess of Lansdowne to Sir C. Phipps.

Foreign Office, August 10, 1904.

Sir,

I have received your despatch of the 31st ultimo, in which you forward a Decree of the Congo Government appointing a Special Commission to inquire into the charges made against the Administration of the Congo Free State in regard to the treatment of natives.

The Commission is composed of

1. M. E. Janssens, Advocate-General in the Court of Appeal of Belgium;

2. Baron Nisco, President ad interim of the Court of Appeal at Boma;

3. Dr. E. de Schuhmacher, Councellor of State and Head of the Department of Justice of the Canton of Lucerne.

In my despatch of the 6th June last) I stated, with reference to the „Notes" handed to you by M. de Cuvelier on the 13th March, that, although the manner in which the promised inquiry should be conducted must be left to the decision of the Congo Government, its results must in a great measure depend upon the position and character of those who were charged with its conduct. His Majesty's Government therefore suggested that a Special Commission should be appointed, composed of members of well-established reputation, and, in part at least, of persons unconnected with the Congo State, to whom the fullest powers should be intrusted both as regards the collection of evidence and the measures for the protection of witnesses.

His Majesty's Government will watch with interest the proceedings of the Commission, the composition of which corresponds in some degree to that which they recommended, and the distinguished position which the members hold, as well as their judicial qualifications, justify them in the expectation that their investigations will be of a searching and impartial character.

After nominating the Commission, the Decree proceeds to empower the members to hear all necessary evidence, to prepare procès-verbaux,

and to refer to the Tribunals, should necessity arise, such offences as the inquiry may disclose. His Majesty's Government trust that the widest interpretation may be given to this provision of the Decree, and that all the authorities in the Congo State will do their utmost to facilitate the inquiry.

It is possible that further regulations are contemplated with regard to the conduct of the proceedings, but His Majesty's Government think it right to urge at once that the sittings of the Commission should be held in public, and that any persons, including missionaries of all denominations and nationalities, shonld be permitted to give evidence if they desire to do so. Provisions to this effect would, in the opinion of His Majesty's Government, contribute materially to the opportunities of eliciting the truth, and would thus lend weight to any conclusions at which the Commission may arrive.

His Majesty's Government desire further to impress upon the Congo Government the need of affording ample time for the purposes of this inquiry. It will be incumbent upon the Commissioners to hear a large number of witnesses and to sift contradictory evidence. Personal observations and visits to remote districts in the large areas affected will no doubt be necessary, and undue haste or superficiality of procedure would fatally impair the value of the Commissioners' Report.

With reference to the protection of those who give evidence, the Decree enables the Commission to provide that witnesses shall be free to appear before it, and that the Courts shall deal with any attempt at subornation and with any act of violence on the part of those against whom evidence has been tendered.

This point is also dealt with in the Memorandum of the 30th ultimo, handed to you by M. de Cuvelier.

The Congo Government concur in the views set forth in my despatch on this subject, and state that, while it is impossible to devise any absolute guarantee of immunity for witnesses, they are willing to undertake the fullest responsibility for the prompt repression and punishment in accordance with the law of any attempt to pervert or defeat the ends of justice. This assurance relates both to the witnesses who come before the Commission and to those who gave evidence to Mr. Casement.

His Majesty's Government note with satisfaction this assurance on the part of the Congo Government. The exercise of proper vigilance, the issue of a public warning that all offences against witnesses will be severely dealt with, and the infliction of prompt and exemplary penalties upon those who disregard it, will, they hope, inspire confidence in the natives, and enable the Commission to achieve the object for which it has been appointed.

You will read this despatch to M. de Cuvelier, and hand a copy of it to his Excellency. Copies will also be sent to the Powers who were parties to the Berlin Act.

I am &c.

(Signed) *Lansdowne.*

The Marquess of Lansdowne to Sir C. Phipps.

Foreign Office, August 10, 1904.

Sir,

I Asked the Belgian Minister to-day whether I should be safe in announcing that no objection would be raised to the presence at the sittings of the Congo Commission of any persons who might be deputed for the purpose of watching those proceeding. We had no desire to interfere in them or to ask for the right to cross-examine the witnesses, but I thought it most important that we should be fully supplied with particulars as to the evidence given and the manner in which the subject was dealt with by the Court.

Count de Lalaing said that he had no information upon this point, but that he would make inquiries with regard to it.

I am, &c.
(Signed) *Lansdowne.*

Sir C. Phipps to the Marquess of Lansdowne.—
(Received August 15.)

Brussels, August 12, 1904.

My Lord,

I Read to M. de Cuvelier yesterday—the day it reached me—your Lordship's despatch of the 10th instant on the subject of the Special Commission of Inquiry in the Congo, leaving a copy with him, in accordance with your Lordship's instructions.

M. de Cuvelier appeared to greet with some satisfaction your Lordship's observations as to the satisfactory composition of the Commission in regard to the individuality of its members, remarking that it would have been difficult to have selected gentlemen better suited for their task. He proceeded, during the reading, to make a few personal observations as to the various points raised.

He remarked, in regard to the hope that the Congo authorities would do their utmost to assist the inquiry, that the Commission could require the production of all documents and subpœna anybody: the assistance of the authorities was therefore assured.

As to the paragraph suggesting that the sittings of the Commission should be held in public, whilst he did not entertain the slightest doubt that every publicity would eventually be given to all proceedings which might take place, his remarks were to the effect that obligatory public sittings would obviously enable all those who held ex parte views to arrive at a previous understanding as to what language each should hold when examined. The missionaries, he felt confident, would back up each others' tales, whilst the experience of such an absurd, though informal, inquiry as that held by Consul Casement into the Epondo case certainly did not encourage the advisability of a public inquiry when natives were in question. It was already very difficult or impossible at any time to

induce negroes to tell the truth, and both the Consul's examination of the Epondo case as well as the counter-inquiry proved that the negroes gave evidence exactly as their momentary interests dictated. Trials, he said, might well be conducted in public, but the very essence of an inquiry consisted in „le recueillement" and in patient efforts to arrive at the truth in a calm atmosphere. According to all the precepts and provisions of Belgian and Congolese Law, an inquiry, especially of this nature, could not be publicly conducted.

As to permission being accorded to missionaries of all denominations to give evidence if desirous to do so, M. de Cuvelier called my attention, in Article 3 of the Decree, to the fact that the members had the power to hear all evidence „utile à la manifestation de la vérité," and would undoubtedly exercise it in the case of missionaries who had led and inspired the attacks against the Administration. It cannot be doubted that the power will be exercised in the case of the Catholic missionaries, who have hitherto maintained silence, and it is certain that such Baptist missionaries, as Messrs. Scrivener, Harris, and Weeks will be given every chance of having their tales of wrong sifted by M. Janssens.

As to the term to be occupied by the inquiry, M. de Cuvelier said that confidence might be felt that it would not be unduly hurried. M. Janssens had only three months' leave at first, but it could be extended as long as necessary, in reason.

The other paragraphs in your Lordship's despatch merely placed on record the conditions and circumstances under which the inquiry was to be conducted, and, beyond acquiescence, excited no observations from the Congo Secretary.

I have, &c.

(Signed) *Constantine Phipps.*

The Marquess of Landsdowne to Sir C. Phipps.

Foreign Office, August 18, 1904.

Sir,

I have received your despatch of the 3rd instant, inclosing a copy of the July number of the „Bulletin Officiel du Congo," in which you call attention to Article 2 of the Decree of the 15th of that month, privided for additions to Penal Code of the Congo State.

The penalties provided by Article 50 of the Penal Code, which has now been made applicable to any person who has „outragé, par faits, paroles, gestes ou menaces," witnesses on account of depositions made by them, appear wholly inadequate as a deterrent, while the expression „à raison de leurs dépositions" does not seem to cover acts of intimidation of witnesses as distinct from acts of retaliation.

I have to request that you will take an early opportunity of bringing the above observations to the notice of M. de Cuvelier, and of stating

that His Majesty's Government would be glad to learn whether, in view of the approaching inquiry by the recently-appointed Special Commission, any further measures for the protection of witnesses are contemplated by the Congo Government.

I am, &c.

(Signed) *Lansdowne.*

Sir C. Phipps to the Marquess of Lansdowne. — (Received August 22.)

Brussels, August 19, 1904.

My Lord,

I lost no time in explaining to M. de Cuvelier the nature of the suggestion which had been made by your Lordship to the Belgian Minister in London, as to the possible presence at the sittings of the Congo Commission of persons who might be deputed to watch the proceedings.

The Congo Secretary declared that, since confidence was felt by His Majesty's Government in the composition of the Commission, he was at a loss to understand why it should be necessary to watch its proceedings. The fullest details would be supplied as to those proceedings, and any person might claim to be examined. Would those whom it might be proposed to delegate be representatives of the Aborigines Protection and other such Societies, or of Protestant Missions? Were such to be the case, it would be a Commission to watch the Commission, and such persons as he had mentioned would merely criticize or distort its action. Was the privilege claimed on the part of England alone, or could other countries claim it? I remarked that it was obvious that the Congo Government could exclude any person to whose presence special objection might be entertained, and that, in my opinion, the proposal was in the interests of the Congo Government. Were it agreed to, all cavilling at the Commission would be silenced.

M. de Cuvelier said that he could not answer for what view the Sovereign might take of the proposal, but he must admit that he, personally, was adverse to it.

I have, &c.

(Signed) *Constantine Phipps.*

Sir C. Phipps to the Marquess of Lansdowne. — (Received September 7.)

Brussels, September 6, 1904.

My Lord,

M. de Cuvelier read to me last night and handed to me a Memorandum, of which I have the honour to inclose copy herewith, drawn up in answer

to the observations contained in your Lordship's despatch of the 10th ultimo on the subject of the attributions and composition of the Special Commission named by the Congo Government.

It will be noticed that satisfaction is given to the suggestions made by your Lordship in respect to the procedure of the Commission as regards the preparation of procès-verbaux, the facilitation on the part of the local authorities of the objects of the Commission, and the permission to all persons, including missionaries, to tender evidence. It recognizes, moreover, the necessity of ample time being afforded for the purposes of the inquiry, and to enable remote districts to be visited.

Reasons are put forward for taking exception to the suggestion made that the sittings of the Commission should be held in public. It is, however, explained that the Commission, being invested with unlimited powers, must be judge on the spot, whether and on what occasions publicity of sittings would assist or else hinder the object aimed at, viz., the entire and complete manifestation of the truth.

I observed to M. de Cuvelier that it appeared to me that no reply was given in the Memorandum in regard to the suggestion which I had been instructed to make as to whether persons deputed to watch the proceedings might be present at the sittings of the Commission.

M. de Cuvelier said he could only repeat that, in that respect as in others, no restrictions were imposed on the Commission; but called my attention to the paragraph in the Memorandum in which it is stated that should indications be offered from an official source as to any persons who might be in a position to supply information of a precise and circumstantial character, the Government would call upon the Commission to accept their testimony. The final words of that paragraph, however, state that the Congo Gouvernment is desirous to elucidate the truth by every means, which, being in conformity with principles and precedents, should not constitute foreign intervention in the interior affairs of the State. He had consulted the Government of the Congo State in order to ascertain whether it would be possible to accede to the desire expressed by your Lordeship, but no precedent could be discovered which could justify the official presence of a person deputed by a foreign Government to attend a Commission of this character. He, however, had every confidence that the desires of His Majesty's Government would be met by the complete and comprehensive powers accorded to the Commission, and that its distinguished members would deal with the subject in a manner satisfactory to the foreign Governments which might be interested in the results of the inquiry.

I have, &c.

(Signed) *Constantine Phipps.*

Inclosure.

Memorandum.

Le Gouvernement de l'Etat Indépendant du Congo a pris connaissance de la dépêche de Lord Lansdowne du 10 août dernier.

Le Décret du 23 juillet, 1904, instituant la Commission d'Enquête, lui donne des pouvoirs d'investigation sans limites pour l'accomplissement de sa tâche — c'est à-dire que ces pouvoirs existent dans la plus large extension en ce qui concerne les témoignages à recueillir, et il en résulte naturellement que toutes personnes quelconques, y compris les missionnaires de toutes dénominations et de toutes nationalités, seront non seulement admises à donner leurs témoignages, si elles le désirent — comme le dit la dépêche du 10 août — mais seront même tenues, sous les sanctions légales, de comparaître et de déposer devant la Commission, si celle-ci juge leur audition utile. En plus, ci l'indication officielle était donnée au Gouvernement de l'Etat de personalités en mesure de fournir des renseignements circonstanciés et précis, le Gouvernement les signalerait à la Commission pour être entendues, désireux de provoquer la lumière par tous les moyens qui, conformément aux principes et aux précédents, ne constitueraient pas d'intervention étrangère dans les affaires intérieures de l'Etat.

Les autorités et agents de l'Etat auront le devoir, qui leur sera d'ailleurs marqué par le Gouvernement, de faciliter l'enquête de la manière la plus complète.

Le Décret ne stipule pas de restriction ou de limitation ni quant au champ d'opération de la Commission, ni quant à la durée son mandat. Le Gouvernement a entendu par là laisser à la Commission toute liberté de diriger ses investigations où elle le jugerait utile et toute latitude d'y consacrer le temps qu'elle estimerait nécessaire. Il entre notamment dans son programme de se rendre dans l'intérieur du pays, comme l'a fait M. le Consul Casement, et d'y procéder jusqu'à ce que son travail d'information et de constatations personnelles ait éclairé sa religion et formé sa conviction.

En ce qui concerne la publicité des audiences, le Gouvernement estime ne pouvoir restreindre les pouvoirs illimités qu'il a donnés à la Commission, laquelle, ayant mission de rechercher et découvrir la vérité, doit être juge, sur place, des conditions les meilleures et des modes les plus favorables pour y atteindre, et apprécier notamment si et quand la publicité des audiences aiderait ou ferait obstacle au but poursuivi, à savoir, la manifestation entière et complète de la vérité. L'obligation imposée d'une publicité absolue, telle que le suggère la dépêche de Lord Landsdowne, n'y viserait pas, si cette publicité, contraire du reste aux règles d'usage général qui régissent la procédure pour la recherche des preuves et des charges, devait, comme il est à craindre, avoir pour résultat de rendre aisées des ententes ou des collusions entre témoins, de faciliter des indiscrétions de nature à dicter ou à orienter les dépositions ultérieures, et en rendant publiques les directions dans lesquelles se porteront les recherches de la Commission, de mettre des tiers intéressés dans tel ou tel sens à même d'exercer certaines pressions ou de faire disparaître des témoins, appréhension que formulait la dépêche autérieure de Lord Lansdowne; si, enfin, une telle publicité, en donnant le spectacle de divergences éventuelles

entre témoins de race blanche, encourageait chez le noir sa tendance naturelle au mensonge dans la pensée d'accentuer ces divergences, de créer des divisions et d'opposer les uns aux autres les blancs dont il n'est que trop porté à affaiblir le prestige.

C'est surtout par son caractère contradictoire que l'enquête présentera de réelles garanties. Il s'entend par là que les témoins, dont les dépositions seront contradictoires, seront confrontés devant la Commission, étant ainsi à même de défendre leurs affirmations personnelles et de combattre celles qui seraient divergentes. L'opportunité sera de la sorte donnée à tout témoin de connaître et de discuter lui-même les autres témoignages non conformes aux siens, et il sera dressé par la Commission pocès-verbal de ces confrontations, comme de toutes ses autres opérations.

Le Gouvernement de Sa Majesté Britannique a exprimé le sentiment que les résultats de l'enquête doivent, en grande partie, dépendre de la position et du caractère de ceux qui seront chargés de la conduire. La dépêche du 10 août dernier, notant, à cet égard, „the distinguished position which the members hold as well as their judicial qualifications," le Gouvernement de l'Etat estime devoir leur laisser la plus grande liberté „in regulating the scope and order of the inquiry," comme le disait, dans un sens analogue, Mr. Chamberlain au Commissaire de Sa Majesté Britannique dans l'enquête de Sierra Leone.

Copie du présent Mémorandum sera adressée aux Puissances auxquelles a été communiquée la dépêche de Lord Landsdowne du 10 août, 1904.

Bruxelles, le 5 septembre, 1904.

Sir C. Phipps to the Marquess of Lansdowne. — (Received September 8.)

Brussels, September 6, 1904.

My Lord,

With reference to your Lordship's despatch of the 18th ultimo as to any further measures being contemplated by the Congo Government for the protection of witnesses before the approaching Commission of Inquiry, M. de Cuvelier expressed to me his conviction that ample precautions had been adopted against the intimidation of these witnesses. The 43rd Article of the Penal Code of the Congo State (of which copy is herewith inclosed) imposed penal servitude on persons guilty of influencing or intimidating witnesses. A special Decree had been already drawn up some days ago assimilating the Special Commission to „les Tribunaux," as mentioned in the Decree.

This Article and Article 51 bis (see Congo Decree of the 15th July last) afforded, he trusted, ample protection to witnesses before the Commission in the case of acts of intimidation and of retaliation. All such acts would be „déférés aux Tribunaux" by the Commission, in compliance with the Decree whereby it is constituted.

I have, &c.

(Signed) *Constantine Phipps.*

Inclosure.

Article 43 of Penal Code.

Section XII. Du Faux Témoignage et du Faux Serment.

Article 43. Le faux témoignage devant les Tribunaux est puni de servitude pénale. La peine peut s'élever à cinq ans.

Si l'accusé a été condamné soit à la servitude pénale à perpétuité, soit à la peine de mort, le faux témoin qui a déposé contre lui peut être condamné à la peine de servitude pénale à perpétuité.

Le coupable de subornation de témoin est passible de la même peine que le faux témoin, selon la distinction des deux Articles précédents.

(Translation.)

Section XII. Of False Testimony and Perjury.

Article 43. False testimony before the Tribunals is punished by penal servitude. The sentence shall not exceed five years.

If the accused has been sentenced either to penal servitude for life or to death, the witness who has given false evidence against him may be sentenced to penal servitude for life.

Any one found guilty of suborning a witness is liable to the same penalties as the witness who gives false evidence himself, as prescribed in the two preceding Articles.

Sir C. Phipps to the Marquess of Lansdowne. — (Received September 14.)

(Telegraphic.) Brussels, September 14, 1904.

Speaking on behalf of the Commission of Inquiry Baron Nisco expressed to me their wish to be furnished with the full text of Consul Casement's Report, with a view to facilitating their inquiries. It would be accepted by them on the understanding that it would be for their own sole use; at the same they consider that on the close of their inquiry they would be obliged to hand it over with other documents to the Congo Government.

I have not yet spoken to M. de Cuvelier on the subject. The Acting British Consul at Boma could communicate the Report to the Commissioners.

Sir C. Phipps to the Marquess of Lansdowne. — (Received September 15.)

Brussels, September 14, 1904.

My Lord,

I Have the honour to inclose copy of the instructions, as published in the press, issued by the Congo Government for the guidance of the Commission of Inquiry, which proceeds to the Congo by the Antwerp steamer to-morrow.

It will be noticed that they accord to its members a latitude even greater than could have been anticipated by the text of the Decree whereby the Commission was constituted.

I have, &c.

(Signed) *Constantine Phipps.*

Inclosure.

Extract from the „Petit Bleu" of September 14, 1904.

Les Instructions de la Commission d'Enquête au Congo.

Le Secrétaire-Général du Département des Affaires Etrangères de l'Etat Indépendant, M. le Chevalier de Cuvelier, a adressé aux membres de la Commission d'Enquête, MM. Ed. Janssens (Président), Baron Nisco, et de Schumacher, les instructions suivantes:

„Messieurs,

J'ai l'honneur de vous transmettre le Décret du 23 juillet, 1904, instituant une Commission d'Enquête et vous désignant comme membres de cette Commission.

Le Gouvernement n'a d'autres instructions à donner à la Commission que celle de consacrer tous ses efforts à la manifestation pleine et entière de la vérité. Il entend lui laisser, dans ce but, tout sa liberté, son autonomie, et son initiative.

Le Gouvernement ne se départira de cette règle de non-intervention que pour donner à ses fonctionnaires et agents de tous grades des ordres formels et rigoureux pour qu'ils prêtent à la Commission une aide et un concours sans réserve, en vue de lui faciliter l'accomplissement de sa tâche.

Le Décret du 23 juillet dernier, en conférant aux membres de la Commission les pouvoirs attribués par la loi aux officiers du Ministère Public, les munit de pouvoirs sans limites pour recevoir tous témoignages quelconques. La Commission est donc à même d'entendre, non seulement les témoins qu'elle citera à comparaître, mais encore ceux qui, spontanément, se présenteront devant elle. D'autre part, il est au pouvoir de la Commission de contraindre les témoins défaillants.

Le Gouvernement ne fixe à la Commission aucune limitation, ni quant au champ de ses opérations, ni quant à la durée de son mandat. Elle dirigera ses investigations où elle le jugera utile et pendant le temps qu'elle estimera nécessaire. Elle n'a, a cet égard, à s'inspirer que de son souci de recueillir les informations et de faire les constatations personnelles suffisantes pour lui permettre de se former ses convictions.

Les mesures législatives se trouvent édictées pour que les témoignages se produisent devant la Commission en toute sincérité et en toute sécurité. Les dispositions du Code Pénal relatives au faux témoignage devant les Tribunaux et à la subornation de témoins ont été rendues applicables à la procédure d'enquête devant la Commission; des textes de la Loi Pénale frappent également quiconque porterait atteint à la personne ou aux biens

des témoins. Des instructions spéciales seront données au Parquet pour que toute infraction de l'un de ces genres qui viendrait à se produire au cours de l'enquête soit déférée sur-le-champ aux Tribunaux, et punie sans délai des peines portées par la loi. Il appartiendra à la Commission de veiller à ce que les mesures légales visant à assurer la sincérité des dépositions et la sécurité des témoins reçoivent la plus large publicité effective.

La Commission trouvera, annexé à la présente, pour son information, un dossier de renseignements se rapportant à l'objet de sa mission."

Foreign Office to Acting Consul Nightingale.

Foreign Office, September, 15, 1904.

Sir,

I Am directed by the Marquess of Lansdowne to inform you that he learns from His Majesty's Minister at Brussels that Baron Nisco stated to him, during a recent conversation, that the Commission of Inquiry had full liberty in the Congo to examine any one, and that their liberty in this respect was shackled by no restrictions. Baron Nisco added that the Commission would gratefully accept any indications which might be given as to witnesses whom it might be useful to summon.

The Commission will doubtless make due public announcement of the districts which they propose to visit, and of the manner in which their inquiries will be conducted, but it will of course be advisable that you should give full information respecting the scope and object of the Commission to any inquirers, and that you should assist, should it seem to you necessary, by placing in communication with them any persons who may signify to you their desire of giving evidence.

I am, &c.

(Signed) *F. H. Villiers.*

The Marquess of Lansdowne to Sir C. Phipps.

Foreign Office, September 28, 1904.

Sir,

I Have had under my consideration your telegram of the 14th instant, in which you inform me that the Congo Commission are desirous of being furnished with the full text of Consul Casement's Report. You add that they would receive it on the understanding that it would be for their use only, but that they consider that it would be their duty at the close of their inquiries to hand it over with other documents to the Government of the Free State.

His Majesty's Government are quite ready to communicate copies of the Report in question to the Commission on these terms, provided that they receive a similar assurance as to the manner in which they will make use of its contents from the Congo Government, to whom, indeed, the terms on which His Majesty's Government have always been ready to communicate the full text of the Report are well known.

You should address a note in this sense to M. de Cuvelier, adding that copies of the Report were forwarded by the steamer of the 16th instant to the Acting British Consul at Boma with a view to its being possible to instruct him, by telegraph, to hand them to the Commissioners so soon as His Majesty's Government should have received the assurance asked for.

I am, &c.

(Signed) *Lansdowne.*

The Marquess of Lansdowne to Sir C. Phipps.

Foreiyn Office, September 28, 1904.

Sir,

I have had under my consideration your despatch of the 6th instant, inclosing a Memorandum by the Congo Government on the subject of the attributions and composition of the Commission of Inquiry.

His Majesty's Government note with satisfaction that, on some points, such as the procedure of the Commission in regard to the preparation of procès-verbaux, the co-operation of local authorities with a view to facilitating the inquiries of the Commission, and the admission of evidence from missionaries or others who may wish to tender it, the decisions of the Congo Government are in accordance with the suggestions which you were instructed to put forward. They regret the more, therefore the disinclination of that Government to accept the suggestion that the sittings of the Commission should be held in public, and that some person, duly authorized and deputed for that purpose by His Majesty's Government, should be permitted to attend them.

The latitude of discretion allowed to the Commission by the Instructions, of which you inclosed a copy in your despatch of the 14th instant, does, no doubt, in some degree, mitigate those feelings of disappointment; but His Majesty's Government feel bound to observe that, whatever force there may be in the argument that publicity would, in the present state of public controversy, militate against a judicial and dispassionate examination of facts, the Congo Government do not even allege that the interests of truth would be endangered by the attendance in Court of a single spectator designated by His Majesty's Government for this purpose. The objection raised that the mere presence of a foreigner, although invested with no judicial authority whatever, would be in itself derogatory to the sovereign and independent status of the Free State, is incomprehensible to His Majesty's Government. They need make no other comment upon it than to point out its obvious inconsistency with M. de Cuvelier's attitude in regard to Mr. Casement's Report. According to this view, the success of the inquiry would appear to depend materially on whether the Commission are or are not placed in possession of the original text of that Report, with the names of the witnesses whose evidence it records. That the Report of a foreign Consul to a foreign Government on the internal administration of the Congo may safely be made the ground for an inquiry without prejudice to national prestige, which will, nevertheless, be gravely

impaired by the presence of another Representative of the same Government at the investigation, is a proposition so self-contradictory that His Majesty's Government cannot believe that it will be seriously maintained.

Should the Congo Government, however, persist in their decision, they cannot, in the opinion of His Majesty's Government, feel surprised or aggrieved if the result should be to destroy in advance all the moral authority which might otherwise attach to the Commission in the eyes of independent observers. Hopes may still be entertained that the inquiry will be productive of good results, but they will be hopes founded solely on the character of the Commission and the intentions professed by the Congo Government, and not on the expectation of obtaining corroborative evidence of the kind which could probably have been provided by the attendance of an impartial and legally-trained observer at the sittings.

In the penultimate paragraph of the Memorandum an allusion is made to the inquiry instituted into the disturbances in Sierra Leone. His Majesty's Government cannot recognize, in the circumstances of that inquiry, anything analogous tho those which have originated the investigation proposed by the Congo Government. Such a precedent might perhaps have been cited with propriety had the Congo Government adopted the course which His Majesty's Government adopted on that occasion, and taken independent action themselves before Mr. Casement's Report was brought to their notice, but it is irrelevant to an inquiry prompted by the friendly representations of a foreign Government.

You should read this despatch to M. de Cuvelier, and leave a copy with him, at the same time explaining that copies will be sent to the various Powers to whom the previous despatches on the subject have been communicated.

I am, &c.
(Signed) *Lansdowne.*

Sir C. Phipps to the Marquess of Lansdowne — (Received October 4.)

(Telegraphic.) Brussels, October 4, 1904.

Referring to your Lordship's despatch of the 28th ultimo, the Congo Government are willing to undertake that, in the event of the Report being communicated both to themselves and to the Commission through the Governor-General at Boma, it will be treated as only for their own use and for purposes of inquiry by the Commission. It must obviously form an essential basis of such inquiry.

It will accordingly not be published until after the termination of the inquiry, nor will it be communicated to officials against whom accusations have been made.

The Congo Government do not wish, however, to undertake that the Report in question shall not, in common with other documents used in the inquiry, be published with the final Report of the Commission.

The Marquess of Lansdowne to Sir C. Phipps.

(Telegraphic.) Foreiyn Office, October 6, 1904.

His Majesty's Government have no objection to communicating complete text of Report on terms mentioned in your telegramm of the 4th instant. They prefer, however, that it should be handed by the Acting British Consul at Boma direct to the Commission, and not, as suggested, through the Governor-General. In the event to the Congo Government agreeing, instructions will at once be sent to Mr. Nightingale to hand to the Commission the three copies already sent to him, and copies will be sent to you for communication to the Congo Government.

Sir C. Phipps to the Marquess of Lansdowne. — (Received October 7.)

Brussels, October 5, 1904.

My Lord,

In compliance with the instructions contained in your Lordship's despatch of the 28th ultimo on the subject of the guarantees which would be requisite in order to insure the communication of Consul Casement's full Report to the Congo Commission of Inquiry, I addressed to M. de Cuvelier on the 3rd instant the note of which I have the honour to inclose copy.

According to the language held by M. de Cuvelier when I saw him yesterday, the Congo Government are under the belief that the special measures taken tor the protection of witnesses (see my despatches of the 3rd August and 6th September) had entirely met the views of His Majesty's Government.

Your Lordship had, he pointed out, in the despatch of the 10th August, noted with satisfaction the assurance in such respect which had been given by the Congo Government. To avoid, therefore, any possible misunderstanding, I explained in my telegram of yesterday what distinct engagements the Congo Government was prepared to make in regard to the Report.

M. le Cuvelier, I may add, further pointed out that when utilizing it for the purposes of the inquiry, although no portion of the Report would then be made public, it would be impossible to prevent the divulgation of names during the course of the examination of witnesses.

I have, &c.

(Signed) *Constantine Phipps.*

Inclosure.

Sir C. Phipps to M. de Cuvelier.

Brussels, October 3, 1904.

M. le Chevalier,

During a private conversation with Baron Nisco, a member of the Commission of Inquiry which has been named by the Congo Government,

that gentleman expressed to me the desire entertained by the Commission to be furnished, as a matter of convenience and for the purposes of their inquiry, with the full text of Consul Casement's Report. Baron Nisco added, on the part of the Commission, that they would receive it on the understanding that it would be for their own use only, but that they considered that it would be their duty, at the close of their inquiries, to hand the Report, together with other documents, to the Government of the Independant State.

I am instructed to state that His Majesty's Government are quite ready, under the conditions thus laid down, to communicate copies of the Report to the Commission, provided that a similar assurance is conveyed to them by the Congo Government as to the manner in which its contents will be made use of. You are, indeed, aware M. le Chevalier of the terms on which His Majesty's Government have always been ready to communicate the full text of the Report in question.

Copies of it were forwarded by the steamer of the 16th September to the Acting British Consul at Boma, with a view to its being possible to instruct him by telegraph to hand them to the Commissioners so soon as His Majesty's Government shall have received the assurances asked for.

I avail, &c.
(Signed) *Constantine Phipps.*

Sir C. Phipps to the Marquess of Lansdowne. — (Received October 11.)

Brussels, October 10, 1904.

My Lord,

I have the honour to transmit herewith copy of a note which I have received from the Congo Government, agreeing to the terms proposed in your Lordship's telegram of the 6th instant for the communication of Consul Casement's Report.

I have, &c.
(Signed) *Constantine Phipps.*

Inclosure.

M. de Cuvelier to Sir C. Phipps.

Bruxelles, le 10 octobre, 1904.

M. le Ministre,

Comme suite à la lettre de votre Excellence du 3 courant et à nos conversations relatives à la communication au Gouvernement de l'Etat et à la Commission d'Enquête du texte complet du Rapport de M. le Consul Casement, j'ai l'honneur de confirmer à votre Excellence l'assurance que j'ai eu l'occasion de lui donner que ce Rapport ne sera pas rendu public dans sa forme intégrale pendant le cours des travaux de la Commission.

Le Gouvernement de l'Etat, au surplus, donne l'assurance à votre Excellence qu'il ne sera fait usage de ce Rapport que „for the own use

only" de la Commission, étant entendu que cet usage comporte pour la Commission la faculté, au cours des interrogatoires et dépositions, d'utiliser les indications et déclarations du Rapport concernant soit les témoins, soit les personnes mises en cause dans ce Rapport.

Le Gouvernement, conformément à la dépêche du 3 octobre, fait savoir par télégraphe au Gouverneur-Général que le Consul Britannique intérimaire à Boma recevra de son Gouvernement l'instruction de remettre à la Commission les exemplaires du Rapport qui lui ont été transmis.

Je saisis, &c.

(Signé) *Ch. de Cuvelier.*

(Translation.)

Brussels, October 10, 1904.

M. le Ministre,

With reference to your Excellency's letter of the 3rd instant and to our conversations relative to the communication to the Government of the State and to the Commission of Inquiry of the full text of Consul Casement's Report, I have the honour to confirm to your Excellency the assurance which I then gave to you that this Report will not be made public in its complete form during the continuance of the labours of the Commission.

The Government of the State further undertake that the Report shall not be employed except „for the own use only" of the Commission, it being understood that such employment implies that the Commission are at liberty, during the course of the examination and depositions of the witnesses, to make use of such of the indications and statements contained in the Report as concern either the witnesses or the persons against whom accusations are there made.

The Government are, in accordance with the despatch of the 3rd October, informing the Governor-General by telegraph that the Acting British Consul at Boma will receive instructions from his Government to hand to the Commission the copies of the Report which have been sent to him.

I take, &c.

(Signed) *Ch. de Cuvelier.*

The Marquess of Lansdowne to Acting Consul Nightingale.

(Telegraphic.) Foreign Office, October 13, 1904.

Please communicate to the Commissioners the three copies of full text of Consul Casement's Report sent to you on the 9th ultimo.

Foreign Office to Acting Consul Nightingale.

(Telegraphic.) Foreign Office, November 2, 1904.

Sir C. Phipps reported in his despatch of the 6th September last, of which you will already have received a copy, that M. de Cuvelier stated

that, so far as concerned the presence of persons deputed to watch the proceedings of the Commission of Inquiry, no restriction had been imposed. I take this to mean that the Commissioners are at liberty to admit individual spectators to be present at their sittings. You should therefore repeat to them the suggestion previously made to M. de Cuvelier, that, with a view solely to strengthen public confidence in them, either you or some other Representative of His Majesty's Government should be permitted to attend their sittings.

The Marquess of Lansdowne to Sir C. Phipps.

Foreign Office, November 3, 1904.

Sir,

In your despatch of the 6th September last you reported, with reference to the suggestion of His Majesty's Government that they should depute a Representative to watch the proceedings of the Congo Commission of Inquiry, a statement by M. de Cuvelier that in this as in other respects the Commission were at liberty to use their own discretion.

His Majesty's Government took note of this intimation, and, as the Commission have now reached the scene of their labours, and have had time to consider their course of procedure, the present seems an opportune moment for again raising the question.

His Majesty's Government have accordingly sent telegraphic instructions to His Majesty's Consul at Boma to renew to the Commission the suggestion previously made to M. de Cuvelier, and inspired solely by their desire to strengthen public confidence in the inquiry, that either he or some other Representative of His Majesty's Government should be allowed to attend their sittings.

You should address a communication in this sense to M. de Cuvelier.

I am, &c.

(Signed) *Lansdowne.*

Acting Consul Nightingale to the Marquess of Lansdowne. — (Received

(Telegraphic.) Boma, December 11, 1904.

In accordance with the instructions contained in your telegram of the 2nd November, I communicated with the Commission of Inquiry, and have received the following reply:

„Les audiences de la Commission d'Enquête sont publiques, et elle ne voit aucun inconvénient à ce que vous ou toute autre personne assistiez à toutes les audiences, ainsi que le font déjà tous les missionnaires."

The Marquess of Lansdowne to Acting Consul Nightingale.

(Telegraphic.) Foreign Office, December 15, 1904, 5.30 p.m.

Your telegram of the 11th December.

I have learnt with much satisfaction the decision of Commissioners that sittings shall be public, and that a Representative of His Majesty's Government is therefore at liberty to attend.

In order not to interfere for too long with the discharge of your ordinary duties I propose to send out for the purpose Vice-Consul Mackie. In the meantime, can you arrange to be present at some of the next sittings?

103.

PAYS-BAS, RÉPUBLIQUE ARGENTINE.

Convention pour l'extradition des malfaiteurs: signée à Buenos Ayres, le 7 septembre 1893.*)

Le Gouvernement de Sa Majesté la Reine des Pays-Bas et le Gouvernement de la République Argentine ayant jugé utile de conclure, conformément aux Législations respectives, une Convention pour l'extradition des malfaiteurs, ont nommé à cet effet pour leurs Plénipotentiaires respectifs, savoir:

Sa Majesté la Reine des Pays-Bas et en son nom Sa Majesté la Reine-Régente du Royaume, M. Léonard von Riet, Consul-Général des Pays-Bas à Buenos Ayres;

Le Président de la République Argentine, M. Valentin Virasoro, Ministre des Affaires Étrangères;

Lesquels, après s'être communiqué leurs pleins pouvoirs trouvés en bonne et due forme, sont convenus des Articles suivants:

Art. I. Les Hautes Parties Contractantes s'engagent à se livrer réciproquement, suivant les règles déterminées par la présente Convention, les individus prévenus ou condamnés à raison d'un des faits énumérés à l'Article II, et qui se sont réfugiés sur le territoire de l'autre État.

II. Les faits qui peuvent donner lieu à l'extradition sont les suivants:

1. Meurtre, pourvu qu'il n'ait pas été commis en légitime défense ou par imprudence;
2. Assassinat;
3. Parricide;

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*) Les ratifications ont été échangées à Buenos Ayres, le 16 décembre 1897.

4. Meurtre ou assassinat commis sur un enfant;

5. Empoisonnement;

6. Avortement volontaire;

7. Blessures volontaires ayant causé la mort sans l'intention de la donner, ou la mutilation grave et permanente de quelque membre ou organe du corps;

8. Viol ou tout autre attentat à la pudeur commis avec violence;

9· Attentat à la pudeur, commis avec ou sans violence envers des enfants de l'un ou de l'autre sexe au-dessous de quatorze ans;

10. Bigamie;

11. Enlèvement, recel, suppression ou substitution d'enfants;

12. Enlèvement de mineurs;

13. Contrefaçon ou altération de monnaies ou de papier-monnaie entreprise dans le dessein d'émettre ou de faire émettre ces monnaies ou ce papier-monnaie comme non-contrefaits et non-altérés; émission ou mise en circulation de monnaies ou de papier-monnaie contrefaits ou altérés; contrefaçon ou falsification de timbres et de marques de l'État, pour autant que les lois des deux pays permettent l'extradition de ce chef;

14. Faux en écriture publique ou privée dans des lettres de change, les papiers de crédit ayant cours légal ou autres effets de commerce, et usage fait à dessein de ces documents falsifiés, pour autant que les lois des deux pays permettent l'extradition pour ces faits;

15. Faux témoignage, subornation de témoins ou faux serment en matière civile ou criminelle;

16. Corruption de fonctionnaires publics, pour autant que les lois des deux pays permettent l'extradition de ce chef;

17. Détournement ou malversation de valeurs publiques, concussion, commis par les fonctionnaires ou des dépositaires publics;

18. Incendie allumé à dessein, lorsqu'il peut en résulter un danger commun pour des biens ou un danger de mort pour autrui; incendie allumé dans le dessein de se procurer ou de procurer à un tiers un profit illegal au détriment de l'assureur ou du porteur légal d'un contrat à la grosse:

19. Entraves volontaires à la circulation sur les chemins de fer ayant eu pour résultat de mettre en péril la vie des voyageurs;

20. Actes de violence commis en public, à forces réunies, contre des personnes ou des biens:

21. Vol commis avec violence envers les personnes ou les propriétés;

22. Le fait illégal commis à dessein de faire couler à fond, de faire échouer, de détruire, de rendre impropre à l'usage ou de détériorer un navire, lorsqu'il peut en résulter un danger pour autrui;

23. Émeute et insubordination des gens de l'équipage ou des passagers à bord d'un navire;

24. Escroquerie;

25. Détournement de valeurs, biens, documents, et tous titres de propriété publique ou privée, commis par les personnes à la garde des-

ils étaient confiés, ou soustraction frauduleuse de ces choses par ceux qui étaient associés ou employés dans l'établissement où le fait a été commis;

26. Banqueroute frauduleuse.

Sont comprises dans les qualifications précédentes la tentative et la complicité lorsqu'elles sont punissables d'après la législation pénale des pays contractants.

L'extradition sera accordée pour les faits énumérés ci-dessus, lorsque les faits incriminés sont punissables de peine corporelle d'au moins un an de prison au maximum.

III. L'extradition n'aura pas lieu

1. Lorsque l'individu réclamé est sujet par naissance ou par naturalisation de la nation requise;

2. Pour les délits politiques ou faits connexes à des délits politiques;

3. Dans le cas où les faits auraient été commis sur le territoire de la nation à laquelle l'extradition est demandée;

4. Lorsque la demande d'extradition sera motivée par le même fait pour lequel l'individu réclamé a été jugé et condamné ou absous dans le pays requis;

5. Si la prescription de la peine ou de l'action est acquise, d'après les lois de l'État requis ou de l'État requérant, avant l'arrestation de l'individu réclamé, ou, si l'arrestation n'a pas encore eu lieu, avant qu'il ait été cité judiciairement.

IV. L'extradition n'aura pas lieu aussi longtemps que l'individu réclamé est poursuivi et jugé pour le même fait dans le pays auquel l'extradition est demandée.

V. Si l'individu réclamé est poursuivi ou subit une peine pour un autre fait que celui qui a motivé la demande d'extradition, il ne sera livré qu'après la fin du jugement définitif dans le pays auquel l'extradition est demandée, et en cas de condamnation qu'après qu'il ait subi sa peine ou qu'il ait été gracié.

Néanmoins si, d'après les lois du pays qui demande l'extradition, la prescription de la poursuite pouvait résulter de ce délai, son extradition sera accordée si des considérations spéciales ne s'y opposent et sous l'obligation de renvoyer l'extradé aussitôt que la poursuite dans ce pays sera finie.

VI. L'individu dont l'extradition a été accordée ne pourra être poursuivi ou puni à raison de délits politiques antérieurs à l'extradition, ni à raison de faits connexes à ces delits.

Il ne pourra être jugé ni puni dans le pays auquel l'extradition a été accordée pour un fait punissable quelconque non prévu par la présente Convention, ni extradé à un État tiers sans le consentement du pays qui l'a livré.

Ces restrictions ne seront pas applicables lorsque l'individu extradé est resté dans le pays où il a été jugé pendant trois mois après avoir subi sa peine, ou après avoir été gracié et mis en liberté, ou lorsqu'il est revenu postérieurement sur le territoire de l'État réclamant.

Les individus condamnés pour des faits auxquels, d'après la legislation de l'État requérant, est applicable la peine de mort, ne seront extradés qu'à la condition que la dite peine ne leur sera pas infligée.

VII. Dans les cas où, conformément aux dispositions de la présente Convention, l'extradition ne doit pas être accordée, l'individu réclamé sera jugé, s'il y a lieu, par les Tribunaux du pays requis, selon les lois de cet État. La sentence définitive devra être communiquée au Gouvernement réclamant.

VIII. Lorsque le fait qui motive la demande d'extradition aura été commis sur le territoire d'un pays tiers qui n'a pas sollicité l'extradition du criminel, il sera donné suite à cette demande dans le cas où la législation du pays requis autorise la poursuite des mêmes infractions commises hors de son territoire.

IX. Si l'individu dont l'extradition est demandée, conformément à la présente Convention, par une des Parties Contractantes, est réclamé également par un autre ou plusieurs autres Gouvernements à raison de faits commis sur leurs territoires respectifs, l'extradition sera accordée à celui sur le territoire duquel le fait le plus grave, selon la législation du pays requis, aura été commis, et, dans le cas de gravité égale, à celui qui aura présenté le premier la demande d'extradition.

X. Si l'individu réclamé n'est pas sujet du pays requérant et que le Gouvernement de son propre pays le réclame à raison du même fait, le Gouvernement auquel l'extradition est demandée aura la faculté de livrer cet individu à celui qui lui conviendra le mieux.

XI. L'extradition sera toujours demandée par la voie diplomatique et, à défaut d'un Agent Diplomatique, par l'intermédiaire du fonctionnaire Consulaire le plus élevé en rang du pays qui fait la demande.

La demande d'extradition doit être accompagnée

1. De l'original ou d'une copie authentique soit d'une ordonnance de mise en accusation ou de renvoi devant la justice répressive avec mandat d'arrêt, soit d'un mandat d'arrêt, soit de tout autre acte ayant la même force, soit du jugement de condamnation, délivré par l'autorité compétente dans la forme prescrite dans le pays qui réclame l'extradition.

Ces documents doivent indiquer suffisamment le fait dont il s'agit pour mettre le pays requis à même de juger s'il constitue, d'après sa législation, un cas prévu par la présente Convention;

2. D'une copie des dispositions pénales applicables au fait dont il s'agit;

3. De tous les renseignements nécessaires pour constater l'indentité de l'individu réclamé;

4. D'une traduction Française de tous ces actes et des dispositions pénales.

XII. L'étranger dont l'extradition peut être demandée pour l'un des faits compris dans l'Article II pourra être détenu provisoirement d'après les formes prescrites par la législation du pays requis, en vertu d'un avis transmis par la poste ou le télégraphe par l'intermédiaire du Ministre des

Affaires Étrangères de l'État requérant et du Représentant Diplomatique ou Consulaire de cet État dans l'autre pays et émané de l'autorité compétente du pays qui fait la réclamation, savoir:

Du côté des Pays-Bas, de tout officier de justice ou tout Juge d'Instruction (Juge Commissaire);

Du côté de la République Argentine de tout Juge d'Instruction et tout Juge pénal.

Cet avis doit annoncer l'existence et la remise d'une ordonnance de mise en accusation ou de renvoi devant la justice répressive avec mandat d'arrêt, d'un mandat d'arrêt ou d'un jugement de condamnation.

L'individu détenu de cette façon sera à moins que son arrestation ne doive être maintenue pour un autre motif, mis en liberté, si dans le délai de deux mois après la date de son arrestation la demande d'extradition par la voie Diplomatique ou Consulaire n'a pas été faite dans la forme déterminée par l'Article XI.

XIII. Il est expressément stipulé que le transit à travers le territoire de l'une des Parties Contractantes d'un individu livré par une tierce Puissance à l'autre partie, et qui n'est pas sujet du pays de transit, sera accordé sur la simple production par la voie Diplomatique ou Consulaire de l'ordonnance de mise en accusation ou de renvoi devant la justice répressive avec mandat d'arrêt, du mandat d'arrêt ou du jugement de condamnation, pourvu qu'il ne s'agisse pas de délits politiques ou de faits connexes à ces délits, mais de ceux énumérés à l'Article II de cette Convention.

Les frais ou transit seront à la charge de l'État requérant.

XIV. Les objets provenant d'un délit, qui auraient été saisis en la possession de l'individu réclamé ou que celui-ci aurait cachés et qui seraient découverts postérieurement, les outils ou instruments dont il se serait servi pour commettre l'infraction, ainsi que toutes les autres pièces de conviction, seront livrés en même temps que l'individu réclamé, si le Gouvernement requérant en fait la demande et si l'autorité compétente de l'État requis en ordonne la remise.

Sont cependant réservés les droits des tiers sur les dits objets qui doivent leurs être rendus sans frais après la fin du procès.

XV. Lorsque dans la poursuite d'une affaire pénale, non politique, l'un des deux Gouvernements jugera nécessaire l'audition de témoins se trouvant dans l'autre État, une Commission Rogatoire, accompagnée d'une traduction française, sera envoyée à cet effet par la voie Diplomatique ou Consulaire au Gouvernement du pays où l'audition doit avoir lieu, et il y sera donné suite dans le pays requis en observant les lois qui sont applicables à ce cas dans le pays où les témoins doivent comparaître.

XVI. Si dans une cause pénale, non politique, la comparution personnelle, d'un témoin est nécessaire ou désirée, le Gouvernement du pays où il se trouve l'engagera à se rendre à l'invitation qui lui sera faite, et en cas de consentement il lui sera accordé par le Gouvernement requérant des

frais de voyage et de séjour à partir du jour où il aura quitté son domicile, d'après les tarifs en vigueur dans le pays où sa comparution doit avoir lieu, sauf le cas où le Gouvernement requérant estimera devoir allouer au témoin une plus forte indemnité.

Aucune personne, quelle que soit sa nationalité, qui, citée en témoignage dans l'un des deux pays, comparaîtra volontairement devant les Tribunaux de l'autre pays, ne pourra y être poursuivie ni détenue pour des crimes ou délits ou pour des condamnations civiles, criminelles, ou correctionnelles antérieures à son départ du pays requis, ni sous prétexte de complicité dans les faits objets du procès où il figurera comme témoin.

XVII. Les Gouvernements respectifs renoncent de part et d'autre à toute réclamation pour la restitution des frais d'entretien, de transport et autres, qui pourraient résulter, dans les limites de leurs territoires respectifs, de l'extradition des prévenus, accusés ou condamnés, ainsi que de ceux résultant de l'exécution de Commissions Rogatoires ou de l'envoi des pièces de conviction ou des documents.

L'individu à extrader sera conduit au port que désignera l'Agent Diplomatique ou Consulaire du Gouvernement requérant, aux frais duquel il sera embarqué.

XVIII. La présente Convention ne sera exécutoire qu'à dater du vingtième jour après sa promulgation, qui aura lieu, aussitôt que faire se pourra, dans la forme prescrite par les législations des deux pays.

Elle continuera à sortir ses effets jusqu'à six mois après le jour qu'elle aura été dénoncée par l'un des deux Gouvernements.

La présente Convention sera ratifiée, et les ratifications en seront échangées à Buenos Ayres aussitôt que faire se pourra.

En foi de quoi les Plénipotentiaires respectifs ont signé la présente Convention et y ont apposé leurs cachets.

Fait en double expédition à Buenos Ayres, le 7 Septembre, 1893.

(L. S.) *L. van Riet.*
(L. S.) *Valentin Virasoro.*

104.

GRANDE-BRETAGNE, RUSSIE.

Correspondance et documents concernant l'incident dans la Mer du Nord — Affaire Hull —; du 23 octobre 1904 au 24 février 1905.

Parliamentary Papers. Presented to both Houses of Parliament by command of His Majesty. February 1905. (Cd. 2350.)

Messrs. Jackson and Co. to the Marquess of Lansdowne. — (Received October 23.)

(Telegraphic.) Hull, October 23, 1904.

We act for Kelsall Brothers and Beeching, Limited, owners „Gamecock" steam fishing-fleet, comprising about fifty steam fishing-vessels. Shortly after midnight, Friday, the 21st instant, Russian Baltic Fleet fell in with them whilst fishing in the North Sea. First portion Russian fleet passed safely, major portion Russian fleet, after turning search-lights on British fishing-vessels for some time, opened fire: steamtrawler „Crane" sunk, decapitated bodies skipper and mate landed here, other members crew more or less dangerously injured; steam-trawlers „Moulmein" and „Minnow" arrived seriously demaged by shot; steam-trawler „Wren" reported sunk with all hands. Our Dr. Jackson, accompanied by Mr. Beeching and informants, coming London to-night mail, arriving Great Northern Hotel about 3 o'clock Monday. Will call upon you to-morrow morning.

Similar telegram sent to Admiralty.

The Marquess of Lansdowne to Sir C. Hardinge.

(Telegraphic.) Foreign Office, October 24, 1904.

We have just received information that the Russian Baltic fleet on the night of the 21st instant suddenly, and without the slightest warning, fired upon the „Gamecock" steam fishing fleet of Hull while engaged in fishing off the Dogger Bank in the North Sea. Several vessels belonging to the fishing fleet are reported missing, and it is impossible to ascertain at present the total number of casualties, but it is known that at least one vessel was sunk and two persons killed, besides a number seriously wounded.

The whole action would seem to have been of the most deliberate character. It is stated that signals were made ordering the fleet to change formation, after which fire was opened, and maintained for a considerable time; that when firing ceased, the Russian fleet, without making the slightest attempt to save life or to ascertain the amount of damage they had done, continued their voyage; that one small vessel remained on the scene

of the occurrence for about six hours, and then also, without making any effort to save life, steamed after the fleet.

All the distinguishing lights required by international regulations, with which the Russian naval authorities are presumably well acqainted, were burning on the fishing vessels, which were lit up by the search-lights of the Russian squadron.

The fact that these vessels could have been mistaken for anything but what they were—namely, a peaceful fishing fleet engaged in their ordinary occupations—can only have been due to the most culpable negligence.

You should inform Count Lamsdorff of what has occurred, and say that the indignation provoked by this incident cannot possibly be exaggerated. The action of the Russian Commanding Officer in leaving the scene of the disaster without offering assistance has aggravated this feeling, as before his voyage was resumed he must have known that his fleet had fired upon and seriously injured innocent and defenceless fishermen.

The matter is one which admits of no delay. His Majesty's Government prefer not to formulate their demands until the explanations, which no doubt the Russian Government will hasten to lay before them, have been received, but it will be their duty to require ample apology and prompt reparation, as well as security against the recurrence of such intolerable incidents.

Sir C. Hardinge to the Marquess of Lansdowne. — (Received October 24.)

(Telegraphic.) St. Petersburgh, October 24, 1904.

Telegrams were received here this morning reporting an attack by ships of the Baltic squadron on some British fishing-vessels in the North Sea.

Count Lamsdorff, on whom I called this afternoon to inquire whether he could give any explanation of the occurrence, stated that the only information that he had received was that conveyed in the press telegrams.

I impressed on his Excellency the extreme gravity of the situation, saying that if the facts were as reported, English public opinion would be very justly incensed. Although your Lordship had, I said, so far, sent me no instructions, I urged him, not as His Majesty's Ambassador, but as a friend, that, as a means of maintaining the friendly relations between the two countries, a declaration should be made that those implicated would be adequately punished if they were proved to have been in fault, and full reparation made.

In reply, Count Lamsdorff said that he had been much affected by the news; that at present he had no information beyond that given by the panic-stricken fishermen. He was unable to admit the correctness of their depositions, and was waiting for the Commander of the squadron to furnish his explanations. He could, however, assure me that no action

of the nature suggested on the part of their naval officers would for a moment be tolerated by the Russian Government; that thorough inquiries would be made, and, if any persons were found guilty of such action, adequate punishment would be inflicted on them, and full reparation be made to the sufferers. Some terrible misunderstanding had arisen, he felt sure, the solution of which, without an inquiry, was impossible.

I said to his Excellency that it would not be possible to allow the situation created by this deplorable incident to be indefinitely prolonged, and remarked that it appeared very strange to me that the fleet should have continued their voyage without showing any regard for the sufferers, and without forwarding a report on the occurrence from any of the telegraph stations on either side of the Channel.

Sir C. Hardinge to the Marquess of Lansdowne.—(Received October 24.)

(Telegraphic.) St. Petersburgh, October, 24, 1904.

Ministry for Foreign Affairs state that they have received no official information of the incident, which, however they deeply regret, and that full reparation will be given if the information published in the press is confirmed.

The same language is used by the Ministry of Marine.

The Marquess of Lansdowne to Sir C. Hardinge.

(Telegraphic) Foreign Office, October, 24, 1904.

There are several trawlers from Milford Haven and Fleetwood fishing of Vigo Finisterre, and Oporto.

Please inform the Russian Government.

The Marquess of Lansdowne to Sir C. Hardinge.

Foreign Office, October 24, 1904.

Sir,

I asked the Russian Chargé d'Affaires to call upon me this afternoon, and inquired of him whether he had any information to give me with regard to the attack made on the 21st instant by the Russian Baltic fleet upon a part of the North Sea fishing fleet. M. Sazonow said that he had not yed received any information on the subject. He could only himself conjecture that the incident, which he deeply deplored, was due to an unfortunate mistake. The Russian Government had received numerous reports to the effect that Japanese agents were visiting this country for the purpose of organizing attacks on the Baltic fleet, and in these circumstances it was perhaps not unnatural that the Captains of the Russian ships should have been alarmed at finding these vessels in close

proximity to their men-of-war. I asked M. Sazonow whether there was the slightest evidence to show that the Japanese had really been making preparations in this country or elsewhere for an attack of the kind, and whether, if the vessels had really been Japanese torpedo boats, they would have displayed the lights which, as we knew, were exhibited by the trawlers at the time when they were fired upon. M. Sazonow said that he imagined that if any attempt of the kind had been made by Japanese vessels they would have endeavoured to simulate innocent fishing-boats. I recapitulated to him the facts as stated in my telegram to you of this day's date, dwelling particularly upon the fact that fire was opened by the ships of war after a change of formation, apparently ordered by signal, and that the whole attack seemed to have been of the most deliberate character. I also said that the prevalent feeling of indignation had been greatly strengthened by the indifference which the Russian Naval Commanders were said to have exhibited in leaving these wretched fishermen to their fate. It was, to my mind, inconceivable that the officers commanding the fleet should not have discovered their mistake before proceeding on their voyage. M. Sazonow said that it was useless for him to offer conjectures as to the circumstances, and that he imagined that the Russian Government would desire to be supplied with a report from the fleet before attempting to address any observations to His Majesty's Government upon the subject. I replied that, although there might be some doubt in regard to matters of detail, the main facts were established beyond dispute. The bodies of the dead sailors had arrived in port. The case was one calling for prompt and adequate reparation, and I earnestly hoped that such reparation would be spontaneously offered by the Russian Government. Of this I felt sure, that if an attempt were made to fence with the question, public feeling here would become uncontrollable. M. Sazonow promised to telegraph to St. Petersburgh the substance of my observations, and he also told me that the Ambassador was to return to this country to-night and would, no doubt, be glad to call upon me to-morrow.

I am, &c.
(Signed) *Lansdowne.*

„Admiral" Carr to Messrs. Kelsall Brothers and Beeching. — (Communicated to Foreign Office, October 25.)

North Sea, October 22, 1904.

Dear Sirs,

While fishing in latitude 55° 18′ north and longitude 5° east on the night of the 21st at 11·30 P.M., a large fleet of men-of-war sprang up under our lee, the wind being about S. S. E.; one squadron passed by the lee side of us and the remainder, consisting of four battleships, steamed just across our head, throwing their search-lights over our fleet. As soon as they got to windward, they began firing on us, the projectiles flying all round and across our decks for a full quarter of an hour, some

of the shots passing under our mainsail so unpleasantly near the men, who were gutting fish in the pound, that they cleared out down below, one shot passing right between theem. I very much regret to say others in the fleet were not so fortunate as us in escaping hurt; the „Crane“ was sunk, the skipper and third hand killed, and all the rest of the crew wounded, with the exception of the cook. The skipper of the „Gull“ it was who, being hailed by the „Crane“ (saying they were sinking), hove up his gear, got out his boat and went to the rescue of the unfortunate survivors, the „Moulmein,“ „Mino,“ and „Snipe“ all having shots pass through them, the two former vessels being obliged to make sail for home. I think two or three vessels did not board this morning, but that may be owing to the thick weather cansing them to miss the fleet. I don't know whether they mistook us for Japanese, or whether they were practising on us to get their hand in. There must be a mistake somewhere: they ought to have known we were only inoffensive fishermen.

I am, &c.

(Signed) *Thomas Carr*, „Admiral.“

Sir C. Hardinge to the Marquess of Lansdowne. — (Received October 25.)

(Telegraphic.) St. Petersburgh, October 25, 1904.

A message from the Emperor has just been brought to this Embassy by Count Lamsdorff to the following effect:

No report has reached His Majesty from Admiral Rostjestvensky, and he can therefore only consider that the unfortunate accident which has taken place off the Dogger Bank must be attributed to an unfortunate misunderstanding. The Emperor is, however, anxious, in view of the sad loss of life which has taken place, to convey to His Majesty the King and to His Majesty's Government his sincere regrets at the occurrence; His Majesty will take the necessary measures of reparation to the sufferers as soon as a clear account is given of the circumstances in which the incident occurred.

Count Lamsdorff added that the incident appeared to him incomprehensible, and begged me to express his sincere regrets to your Lordship.

The Marquess of Lansdowne to Sir C. Hardinge.

(Telegraphic.) Foreign Office, Octobre 25, 1904.

I have received your two telegrams of yesterday on the subject of the attack on the Hull fishing fleet by the Russian Baltic squadron.

His Majesty's Government entirely approve your prompt action and your language to Count Lamsdorff.

The Marquess of Lansdowne to Sir C. Hardinge.

Foreign Office, October 25, 1904.

Sir,

The Russian Ambassador arrived in London last night, and asked me to receive him this morning. He told me that he had not yet received any instructions from the Russian Government with regard to the North Sea incident. It was, indeed, almost impossible that he should have received such instructions, for he understood that, although the occurrence had taken place on the night of the 21st instant, we had not heard of it until yesterday, and the Russian Government could scarcely have heard of it sooner. His Excellency added that he had already telegraphed to St. Petersburgh, and that he felt sure that the deepest regret would be felt and expressed in Russia by the Emperor, the Government, and, indeed, every one throughout the country. He would take upon himself to say that no difficulty would be experienced in regard to the question of compensation. The question of responsibility was more complicated. It would be difficult to establish without a full report from the naval authorities, and this might take time; but I might depend upon it that no pains would be spared to ascertain where the blame lay.

I told his Excellency that the Prime Minister had arrived from Scotland this morning, and that I was to confer with him immediately, and that it might, in the circumstances, be better that I should not at this moment present to him anything purporting to be a full and complete statement of our demands. It seemed to me, however, self-evident that they would fall under the following heads:

We should, in the first place, expect an ample apology and disclaimer from the Russian Government.

In the second place, I could not doubt that they would offer the fullest reparation to the sufferers. I assumed that upon these two points there could be no room for doubt.

Thirdly, it would be indispensable that a searching inquiry should be instituted with a view to ascertaining who was to blame for what, if the circumstances were as stated, could only be regarded, not only as a blunder, but as a culpable blunder.

As to this, I thought we should be justified in asking that we should be given an opportunity of satisfying ourselves that the case of the sufferers was properly put forward and taken into consideration by the Court. It followed that we should expect the adequate punishment of the persons, whoever they might be, who proved to be responsible. But, besides this, it would no doubt be our duty to satisfy ourselves that security was given to us against a repetition of such incidents. The only defence as yet put forward, and indeed the only conceivable defence, was that the Russian naval officers had bonâ fide believed that these innocent fishermen were Japanese agents in disguise. The Russian fleet had acted upon this assumption, in spite of the fact that the trawling fleet was upon ground which it habitually frequented, and displayed all the signals required by the international

regulations in force. If, in such circumstances, innocent people were fired upon, on the assumption that they were Japanese in disguise, who would be safe, and what was to prevent the Russian fleet, during its long journey to the Far East, from carrying death and destruction with it throughout its course?

Count Benckendorff said that he felt sure that no difficulty would arise, either as regards the question of apology or as to that of compensation. As he had already said, every effort would be made to place the responsibility for these acts upon the right shoulders, and he saw no reason why we should not be given a full opportunity of bringing forward such evidence as seemed to us material. With regard to the recurrence of such incidents, he could not himself believe that it was possible, but he felt sure that the Russian Government would be ready to take every precaution to guard against it, and to issue instructions that for the future any suspicious cases should be dealt with with the greatest circumspection.

I again impressed upon his Excellency the need of prompt action by the Russian Government, which would relieve us from the duty of taking our own measures for guarding against a repetition of such acts. His Excellency promised to telegraph the substance of my observations to the Russian Government.

I am, &c.

(Signed) *Lansdowne.*

Sir C. Hardinge to the Marquess of Lansdowne. — (Received October 26.)

(Telegraphic.) St. Petersburgh, October 26, 1904.

Naval Attaché called this morning at the Admiralty, at my request, to inquire whether Admiral Rostjestvensky has yet reported, or whether a report from him is on its way.

Admiral Wirenius, Chief of the Staff, told Captain Calthorpe that the Russian Embassy at Madrid had received instructions to send the Consul at Vigo in a fast hired steamer to intercept the Admiral off Cape Finisterre and deliver a message. In reply to an inquiry as to the nature of this communication, Captain Calthorpe was informed that it contained a statement of the positions of the British trawlers fishing in those waters, as stated in your Lordship's telegram of the 24th instant. Captain Calthorpe then inquired whether any demand for a report had been made by the Admiralty, and to this the Chief of the Staff replied in the negative, and persisted in repeating that, as the Admiral was sure to send the report, there was no need for such instructions.

The Marquess of Lansdowne to Sir C. Hardinge.

Foreign Office, October 26, 1904.

Sir,

Shortly before midnight last night I received from the Russian Ambassador a note of which a copy is attached to this despatch. I addressed to him a reply at 8 o'clock this morning, of which a copy is also inclosed. At 11 o'clock his Excellency called upon me and explained that Count Lamsdorff's telegram quoted in his note was not an answer to a long telegram which he had dispatched yesterday after his interview with me. The latter did not leave London till 9 P.M. yesterday. This no doubt, said his Excellency, explained why some of the points upon which I had so much insisted were not referred to by Count Lamsdorff. I might indeed regard both his telegram and that which the Emperor had addressed to the King as spontaneous expressions of regret.

His Excellency then discussed with me some of the points dealt with in my letter of this morning, upon which he proposed to found a further telegram to the Russian Government. He was, however, prepared to take upon himself to say that measures had already been undertaken for the purpose of intercepting the Russian fleet — whether at Vigo or elsewhere he could not say. He was also prepared to authorize me to express at once the profound regret of the Russian Government for this deplorable incident, which they attributed to a disastrous mistake due to the apprehension of an attack by Japanese vessels in disguise. He might also say that an inquiry into the facts had been at once opened by the Russian Government, and is being proceeded with. He took some exception to my stipulation that we should be given an opportunity of satisfying ourselves that the investigation is full and complete, saying that he thought these words might be interpreted as giving us „control" over the proceedings. He preferred to await further instructions before authorizing me to say that the inquiry would deal with the question of responsibility with a view to the punishment of the guilty persons, but he felt, himself, no doubt that this was the case. He also felt sure that the necessary instructions would be issued, warning the officers of the fleet to use the utmost circumspection in dealing with suspicious cases — instructions which would be of a kind which would render impossible any repetition of the North Sea incident.

I begged his Excellency to telegraph at once upon these latter points. I also dwelt upon the need of prompt measures to intercept the fleet. If it were allowed to continue its journey without calling at Vigo, we might find ourselves at war before the week was over. I took the opportunity of calling his Excellency's attention to the communiqué which appears in to-day's papers as to the concentration of the British fleet at Gibraltar and elsewhere. His Excellency hat not seen this statement.

Count Benckendorff called upon me again in the evening at my request. I told him that the telegram I had received from you made me doubt whether the Russian Government were really taking effectual steps

to intercept the fleet at Vigo, with the object of instituting an inquiry as to the responsibility for the North Sea incident. Count Benckendorff said that he felt sure that the intention of the Russian Government was to obtain full information upon this point from the Admiral. I said that I trusted there would be no misapprehension upon this point. We could not admit that the Russian fleet should be allowed to proceed upon its voyage, carrying with it the persons who were responsible for the North Sea incident: their departure would not only enable them to elude justice, but would also render it impossible to obtain conclusive results from the inquiry which the Russian Government had promised to undertake. I felt bound to tell him that unless our demands in this respect were complied with, it might be necessary for us to take measures for the purpose of enforcing them. I said that the Prime Minister was to make a most important speech on Friday evening, and would, of course, have to deal with this question. I trusted it would be possible for him to make a satisfactory announcement, and if he were able to do so the excitement, which was now running high in this country, would no doubt subside; but if, on the contrary, he were only able to say that we had received expressions of regret and promises of compensation, he would have to add that we adhered to our full demands and were determined not to abandon them.

After a long discussion, his Excellency promised to telegraph to his Government to the following effect:

„My telegrams of yesterday and to-day are regarded by the British Government as implying that the Admiral in command of the fleet will designate the officer or officers responsible for the North Sea incident by means of a summary investigation, which would not take more than a few hours. These officers would subsequently have to be subjected to a thorough investigation at St. Petersburgh. Their immediate return to Russia is therefore involved. Their immediate trial is considered by the British Government as an absolute condition of the peaceable termination of the incident (l'appaisement pacifique de l'incident), and the British Government object to the officers responsible being allowed to continue their campaign before judgment. Lord Lansdowne assures me that in an analogous case the British Government would not hesitate to act in this manner. The situation here is complicated by the fact that the Prime Minister will make a Ministerial statement on Friday next and it will be impossible for him to avoid pronouncing himself definitely."

His Excellency told me that he had received from the coroner at Hull an intimation that the inquest was to be held on the 2nd November, but that it might be adjourned if the Russian Government desired that any of their officers should be examined as witnesses. I said that His Majesty's Government would be glad to give facilities for a Representative of the Russian Government to attend the proceedings in the Coroner's Court.

I am, &c.

(Signed) *Lansdowne.*

Annex 1.

Count Benckendorff to the Marquess of Lansdowne.

Londres, le 12 (25) Octobre, 1904.

Cher Lord Lansdowne,

Je reçois ce soir un télégramme du Comte Lamsdorff, qui me dit que le Ministre, de la Marine, à son regret, n'a encore reçu aucune information directe au sujet du malencontreux incident survenu dans la Meer du Nord entre l'escadre Russe et la flotille de pêche Anglaise.

Il ajoute que les péripéties dont rendent compte les télégrammes des agences ne peuvent trouver d'autre explication que celle d'un déplorable malentendu, et qu'à peine les faits se trouveront élucidés (les mesures à cet effet sont déjà prises par l'Amirauté Impériale), une indemnité la plus complète possible est garantie aux victimes.

Le Comte Lamsdorff termine en me chargeant de vous exprimer sans plus de retard le plus profond regret du Gouvernement Impérial du néfaste incident dont ces pêcheurs Anglais ont été la victime.

Veuillez, &c.

(Signé) *Benckendorff.*

(Translation.)

London, October 12 (25), 1904.

Dear Lord Lansdowne,

I have received a telegram from Count Lamsdorff this evening, informing me that the Minister of Marine regrets that he has not yet received any direct information regarding the unfortunate incident which occurred in the North Sea between the Russian squadron and the English fishing fleet.

He adds that the proceedings reported in the agency telegrams can only be explained as the result of a deplorable misunderstanding, and that the fullest possible indemnity is assured to the victims as soon as the facts are cleared up—measures for which purpose have already been taken by the Imperial Admiralty.

Count Lamsdorff concludes by requesting me to express to you without further delay the deepest regret of the Imperial Government for the deplorable incident, of which the English fishermen have been victims.

I am, &c.

(Signed) *Benckendorff.*

Annex 2.

The Marquess of Lansdowne to Count Benckendorff.

Foreiyn Office, October 26, 1904 (sent 8 A.M.).

My dear Ambassador,

I am much obliged to you for your note which reached me last night.

It justifies me in announcing that the Russian Government have expressed their profound regret for the attack perpetrated by the Russian

fleet on the British trawlers, that measures have already been taken to institute an inquiry into the facts, and that as soon as these have been elucidated ample compensation will be made to the sufferers.

You will, however, pardon me for saying that this is not enough. As I mentioned to you yesterday it is absolutely necessary that the Russian Government should ascertain who are the persons responsible for this unprovoked attack on British fishermen, and that we should be able to say that the Government inquiry will be directed to this object also, and that the guilty persons will receive exemplary punishment. We shall also expect to be given every facility for bringing forward evidence in support of our case and satisfying ourselves that the investigation is full and complete.

It is not less necessary that we should be able to announce that measures have been taken by the Russian Government to render impossible the recurrence of such incidents.

The only defence which has been advanced is that the officers who ordered the attack considered, and presumably still consider, that they are justified in treating as an enemy any innocent craft which they may meet on their voyage to the Far East, on the mere suspicion that it may be a Japanese vessel in disguise.

I need not dwell upon the kind of results which such a condition of mind might produce.

I hope you will telegraph to your Government at once, and ask them to authorize you to reassure us on both these points.

It seems to me, I must say, absolutely incomprehensible that the officers of the fleet should have left your Minister of Marine without information as to so grave an event; that the fleet should be pursuing its way to the East carrying with it all those who are able to give an account from your point of view of occurrences which surely call for prompt and searching investigation, and that the Minister should apparently be without the means of communicating with it expeditiously. I presume that an effort is being made to intercept it with a view to at least obtaining from the authors of the attack such explanations and such evidence as they may be able to furnish. I shall be glad if you will enable me to say that I am right as to this.

I have, &c.
(Signed) *Lansdowne.*

Admiralty to Foreign Office. — (Received October 27.)

Admiralty, October 26, 1904.

Sir,

I am commanded by my Lords Commissioners of the Admiralty to transmit herewith, for the information of the Marquess of Lansdowne, an extract from the Russian Sailing Directions — Cronstadt to Vladivostock, Part III — relative to precautions to be observed in navigating near the Dogger Bank.

I am, &c.
(Signed) *Evan Macgregor.*

Inclosure.

Extracts from the Russian Sailing Directions, Cronstadt to Vladivostock, Part III.

Page 13. The inexhaustible quantity of fish (especially the cod on the Dogger Bank) attracts hundreds of fishing boats, rendering navigation difficult, especially at night, by the sudden appearance of their lights.

Page 15. This bank derives its name from the old Dutch word „dogger," meaning cod, owing to the extraordinary quantity of this fish here. Fishing-boats collect on the Dogger Bank in whole flotillas, their number being exceptionally great from November to March.

Page 242. The Dogger Bank always crowded with fishing-boats.

Sir C. Hardinge to the Marquess of Lansdowne. — (Received October 27.)

(Telegraphic.) St. Petersburgh, October 27, 1904.

At Count Lamsdorff's urgent request I called on him at 10 o'clock this morning.

His Excellency communicated to me the following telegram which had been sent to the Ministry of Marine by the Commander of the Baltic squadron at Vigo:

„At Count Lamsdorff's request I have been asked to take the necessary steps for the protection of British fishermen near Vigo.

The squadron has met many hundreds of fishermen, and has treated them with every consideration except in the case when the fishermen were in the company of foreign torpedo-boats, one of which has disappeared, and the other, according to the depositions of the fishermen themselves, remained near them till morning. They took it for a Russian ship, and were indignant that it did not come to the help of the wounded, but it was of foreign nationality, and remained till morning to refind its consort or to repair its damages. It evidently feared to betray its origin to those who were not its accomplices. If there were also fishermen on the spot who were imprudently drawn into the interprise, I wish in the name of the whole squadron to express to the unfortunate victims the most sincere regrets. In the above-mentioned circumstances no warship could have acted otherwise, even in time of profound peace."

Count Lamsdorff promised to send me later a copy of a further telegram which he read to me, giving details of what took place. It showed that no torpedo-boats accompanied the Russian squadron, as they had been sent on in advance; that the leading vessel of the squadron was attacked by two torpedo-boats without lights; that one disappeared and the other was sunk; that a fishing fleet was discovered in the vicinity when the search-light had been turned on to the torpedo-boats, and that the firing ceased the moment the latter disappeared.

Count Lamsdorff pointed out that a statement made in one of the accounts given to the English press, to the effect that two torpedo-boats approached one of the fishing-boats and retired before the commencement of the cannonade, corroborated this version. As the Admiral had none with him, these could not have been Russian torpedo-boats. His Excellency had received positive proof that twenty Japanese officers had arrived in Hull a few days before, and that attacks of such a nature were being planned. He maintained that the word of a Russian Admiral, which his subordinates could corroborate, was of greater value than the testimony of panic-stricken fishermen.

I asked Count Lamsdorff whether, in view of the fact a further inquiry might be necessary, the Admiral would remain at Vigo.

He replied that he earnestly desired that every possible light should be thrown on this incident, and he felt quite convinced that if the Spanish Neutrality Regulations would permit of such a course, the Emperor would have no objection to the prolongation of the Admiral's stay at Vigo.

As soon as the second telegram from the Admiral has been received I will forward it.

Sir C. Hardinge to the Marquess of Lansdowne. — (Received October 27.)

(Telegraphic.) St. Petersburgh, October 27, 1904.

Count Lamsdorff has communicated to me the text of the second telegram received from the Admiral of the Baltic fleet:

„The incident in the North Sea was provoked by two torpedo-boats which, without lights and protected by the obscurity, prepared to attack the leading vessel of the squadron. When the squadron began to show war signals and then to fire, several other small steamers resembling fishing vessels were discovered. The squadron tried to spare these vessels, and stopped firing as soon as the torpedo-boats had disappeared. The English press is indignant that a torpedo-boat left till morning in the vicinity of the incident did not render assistance to the shipwrecked. However, amongst ships of the squadron there was not a single torpedo-boat, and not a single one was left on the spot where the incident occurred. Consequently, that which remained till the morning near the small steamers was one of the enemy's torpedo-boats, which had not been sunk and which was only damaged. The squadron could not render assistance to the small steamers, who might be suspected of complicity in view of their obstinate attempts to break the line of our ships. There were some boats which had not lit any lights at all, others very late."

Count Lamsdorff has drawn my attention to the fact the translation of this telegram is a hasty one, as it was only received this morning. I gather from what he said that there is a doubt as to whether the Russian word used means destroyer or torpedo-boat.

The Marquess of Lansdowne to Sir C. Hardinge.

(Telegraphic.) Foreign Office, October 27, 1904.

Following telegram was addressed by Admiral Rostjestvensky from Vigo at 9 · 50 P. M. yesterday to Captain Bostroem, Naval Attaché, Russian Embassy:

„The North Sea incident was occasioned by the action of two torpedo-boats which steamed at full speed under cover of the night, and showing no lights, towards the ship which was leading our detachment. It was only after our search lights had been turned on that it was remarked that a few small steam craft bearing a resemblance to trawlers were present.

The detachment made every effort to spare these craft, and ceased firing as soon as the torpedo-boats had disappeared from sight.

The Russian detachment did not include any torpedo-destroyers, and no Russian vessels of any kind was left behind upon the scene of the incident. It follows that the vessel which is declared to have remained in the neighbourhood of the small fishing boats until daylight must have been one of the two enemy's torpedo-boats, which had only sustained some injuries, the other one having been sunk.

Our ships refrained from giving assistance to the trawlers on account of their apparent complicity, which they manifested by their persistence in attempting to pass trough our line.

Some of these trawlers dit not show their navigation lights for a long time, and others not at all.“

The Marquess of Lansdowne to Sir C. Hardinge.

(Telegraphic.) Foreign Office, October 27, 1904.

My telegram of to-day.

I have told Russian Ambassador officially that we are wholly unable to accept Admiral's explanation, and that it will certainly not carry conviction in this country. I have informed him of our demands, which are as follows:

1. Before Russian fleet leaves Vigo, inquiry to be made by Russian authorities as to persons responsible for attack on fishing fleet. All these to be left behind, as well as any other whose testimony is essential to elucidation of facts.

2. A full inquiry to be held at once as to the facts by an independent Court with an international character. Procedure might be that laid down in Articles IX to XIV of Hague Convention, and Commission might be formed of naval officers of high rank respresenting the two Powers concerned and, say, three others.

3. Russian Government to undertake to punish adequately any persons found guilty by Commission.

In reply to a question by him, I said that, if these demands were conceded, acute character of crisis would disappear, as Russian Government had already expressed their deep regret, promised liberal compensation, and undertaken to prevent recurrence of similar incidents.

The Marques of Lansdowne to Sir E. Monson.

(Telegraphic.) Foreign Office, October 27, 1904.

North Sea incident.

His Majesty's Government are anxious to ascertain whether, on the night of the attack by the Russian fleet on the British trawlers, any torpedo-boats or destroyers belonging to the Government to which you are accredited were in the vicinity of the Dogger Bank.

Please make inquiries at once as to this, and also whether any information is available of Japanese agents having acquired and equipped any such torpedo-boats or destroyers at any point along the coast.

The Marquess of Lansdowne to Sir C. Hardinge.

Foreign Office, October 27, 1904.

Sir,

The Russian Ambassador asked me to see him this morning at 11 o'clock.

He told me that he had a remarkable and important communication to make to me.

Captain Boström, the Naval Attaché to the Russion Embassy, had sent a private telegram yesterday morning to Admiral Rostjestvensky, informing him of the events alleged to have taken place in the North Sea on the night of the 21st instant. Captain Boström had received this morning a telegram from the Admiral, dispatched from Vigo at 950 p.m., running as follows:

The North Sea incident was occasioned by the action of two torpedo-boats which steamed at full speed under cover of the night, and showing no lights, towards the ship which was leading our detachment. It was only after our search lights had been turned on that it was remarked that a few small steam craft bearing a resemblance to trawlers were present.

The detachment made every effort to spare these craft, and ceased firing as soon as the torpedo-boats had disappeared from sight.

The Russian detachment did not include any torpedo-destroyers, and no Russian vessel of any kind was left behind upon the scene of the incident. It follows that the vessel which is declared to have remained in the neighbourhood of the small fishing-boats until daylight must have been one of the two enemy's torpedo-boats, which has only sustained some injuries, the other one having been sunk.

Our ships refrained from giving assistance to the trawlers on account of their apparent complicity, which they manifested by their persistence in attempting to pass through our line.

Some of these trawlers did not show their navigation lights for a long time, and others not at all".

His Excellency said that he had asked, but not yet obtained, permission from Count Lamsdorff to communicate this telegram to me officially. In meantime, he could only do so on his own responsibility.

After reading the telegram, I told Count Benckendorff that the version given by the Admiral was one which would not carry the slightest conviction with it in this country. The statement seemed to me to bristle with improbabilities. How was it possible that these Japanese torpedo-boats should have been found in the middle of the North Sea? What evidence was there to show that they existed? Captain Boström, who was present at our interview, said that it was scarcely possible for the Russian officers to have made a mistake. The steam-trawlers were slow-going craft, whose appearance left no doubt as to their character. The two torpedo-boats had, on the contrary, been seen going at a gread speed.

Count Benckendorff laid much stress upon the statement that the detachment of the Russian fleet did not include any torpedo-boats, and that no Russian vessel of any kind had remained behind upon the scene of the incident. I asked whether it was not the case that the Russian fleet consisted of fifty or sixty vessels of different sorts, and whether it was possible for the Russian Admiral to be sure that one of these had not lagged behind. Was he in a position to answer for every ship in the squadron? Captain Boström interposed the suggestion that, for all he knew, the Admiral himself might not have been there, and had derived his information from other officers who were.

Count Benckendorff asked me whether I did not think that the Admiral's statement entirely altered the situation. I replied that I did not think so. We still demanded a thorough investigation, with the view to ascertaining where the responsibility lay and obtaining the punishment of the culprits.

Count Benckendorff replied that it was evident that an investigation had already taken place. The Admiral had arrived at Vigo early yesterday, and had, no doubt, already instituted an inquiry to supplement any information which he had been able to collect during his voyage.

I replied that the inquiry, if there had been one, must obviously have been of a very hurried description, and that it was idle to suppose that we could regard it as disposing of the facts of the case. The situation was this: We had made representations founded upon evidence which we believed to be in the main trustworthy, although there might be room for doubt in regard to points of detail. There was no doubt that these unfortunate men had been killed and their vessels sunk or injured, and that they were absolutely innocent. The Russian Government had now put in the counter-statement which he had just handed to me, and which, as I had already said, we could obviously not accept as conclusive. In such a case, there was only one course which could properly be followed. The whole case must form the subject of a complete and searching investigation, and such an investigation could not take place without the presence of the persons who were responsible for the attack upon the fishing fleet, and thoroughly aware of the circumstances under which it took place. We adhered to our demand that these persons should be recalled and placed on trial.

I begged his Excellency to telegraph at once in this sense to the Russian Government, and he said he would do so.

His Excellency called upon me again in the afternoon. I told him that I had communicated to the Prime Minister and some of my colleagues the telegram which he had allowed me to see in the morning, and that I had repeated to them the observations which I had made to his Excellency during our interview. They had approved my language, and regarded Admiral Rostjestvensky's explanation as one which it was out of the question for us to accept, and which would not be taken seriously in this country. I was now in a position to tell his Excellency that, in our view, it was absolutely necessary that before the Russian fleet leave Vigo steps should be taken by the Russian authorities to ascertain who were the persons responsible for the attack upon the fishing fleet. These persons should be left behind, as well as any others whose testimony was regarded by the Russian naval authorities as essential to the elucidation of the facts. An inquiry would then be held as to these, and in our view such an inquiry could best be intrusted to an independent Court possessing an international character. Articles IX to XIV of the Hague Convention on International Commissions of Inquiry seemed to us to provide for such an inquiry. We were inclined to think that the Commission might in this instance be formed of naval officers of high rank representing the two Powers concerned, and, say, three of the other Great Powers; but these were details which might be hereafter discussed. It would, of course, be a sine quâ non that we should receive an assurance from the Russian Government that they would punish adequately the persons, if any, who might be found by the International Commission to have been guilty.

His Excellency said that he felt no doubt that such an assurance would be forthcoming. He told me that he had already telegraphed, as the impression which he had derived from a conversation with me, the substance of what I had said to him in the morning. He would now confirm this telegram officially. He had made it quite clear that we insisted upon a trial, and that this involved the appearance („confrontation") of the persons interested, and therefore their withdrawal from the fleet („débarquement"). He asked me whether he might add that if this demand were conceded the crisis would no longer remain acute. I said that as the Russian Government were ready to express its deep regret, to promise liberal compensation, and also to assure us that precautions would be taken to prevent a recurrence of such incidents, it seemed to me that the further demand which we had been discussing was, in effect, the only obstacle to an arrangement which would certainly deprive the situation of its present acute character.

I am, &c.

(Signed) *Lansdowne.*

Admiralty to Foreign Office.—(Received October 28.)

Admiralty, October, 27, 1904.

Sir,

With reference to the North Sea incident, I am commanded by my Lords Commissioners of the Admiralty to request that you will inform the Marquess of Lansdowne that, from inquiries which have been made, it has been ascertained that there were no torpedo-boat destroyers belonging to His Majesty's fleet in the North Sea between Friday afternoon (21st instant) and Monday (24th instant).

I am, &c.

(Signed) *Evan Macgregor.*

Sir C. Hardinge to the Marquess of Lansdowne. — (Received October 28.)

(Telegraphic.) St. Petersburgh, October, 28, 1904.

I received at 9 A.M. this morning from Count Lamsdorff a letter, of which the following is a résumé:

Admiral Rojestvensky's telegrams will be published in the press to-day.

Minister of Marine, being anxious to throw as much light as possible on the North Sea incident, has ordered the Admiral to remain at Vigo with those ships by whom it was witnessed. It is hoped that no objection will be raised by the Spanish Government to the prolongation of their stay in Spanish waters.

The Admiral's detailed reports, which have been sent by post, can only reach St. Petersburgh in four or five days.

Letter concludes as follows:

I am absolutely convinced that, with a firm intention to clear up the question with a spirit of calm, good faith, and a spirit of mutual conciliation, we shall not fail to find practical means of settling to general satisfaction the great difficulties temporarily created by the contradictory depositions and the great amount of time involuntarily lost.

Sir C. Hardinge to the Marquess of Lansdowne. — (Received October, 28.)

(Telegraphic.) St. Petersburgh, October 28, 1904.

Following telegram has been dispatched to Russian Ambassador in London:—

„Désirant jeter le plus de lumière possible sur tout ce qui s'est passé dans la Mer du Nord, l'Empereur trouverait utile de déférer l'examen scrupuleux de cette question à une Commission Internationale d'Enquête prévue par la Convention de La Haye. D'ordre de Sa Majesté, votre Excellence est invitée à proposer ce mode de solution au Gouvernement de Sa Majesté Britannique."

In communicating the above to me, Count Lamsdorff expressed the hope that this proposal of the Emperor would be well received in England.

Sir C. Hardinge to the Marquess of Lansdowne. —
(Received October 28.)

(Telegraphic.) St. Petersburgh, October, 28, 1904.

Your Lordship's telegram of yesterday.

In the course of a long interview which I have just had with Count Lamsdorff, his Excellency said that he gladly recognized your Lordship's attitude as a proof of your readiness to accept the Emperor's proposal for an International Court of Inquiry; the details of the composition and procedure of the Court, which, he thinks, should be as far as possible simplified, may be discussed as soon as news reaches him that the proposal has been formally accepted. The squadron has received instructions not to leave Vigo, and orders will be sent that the officers who were in the best position to judge the actual circumstances of the attack are to be detached from it.

As for the question of punishment, Count Lamsdorff stated that he could not admit the guilt of any Russian officer until the results of the inquiry were known; it would then be time to apportion responsibilities and their consequences on whomsoever they might be found to fall. He therefore declined to discuss this now.

He attributed to the careful moderation of your Lordship's language the peaceful tone which the discussion had taken, at which he expressed great satisfaction. The deepest resentment would have been produced here by any symptom of menace, and the result would have been a war which would have disgraced the civilization of ths twentieth century.

Sir E. Monson to the Marquess of Lansdowne. —
(Received October 28.)

(Telegraphic.) Paris, October 28, 1904.

Attack by Russian war-ships on British trawlers.

I have received assurances in answer to verbal inquiries which I caused to be made at the Ministry of Marine and at the Ministry for Foreign Affairs that it will almost certainly be established by an official reply, which I hope to receive some time to-day, that there were no French destroyers or torpedo-boats in the vicinity of the Dogger Bank, and that the French Government have no knowledge of the purchase or equipment by Japanese Agents of any such boats in France, although there have recently been vague rumours concerning the presence of Japanese Agents in Scandinavia and on the adjacent coasts of Europe.

At two o'clock to-day I am to have an interview with M. Delcassé.

Sir F. Lascelles to the Marquess of Lansdowne. — (Received October 28.)

(Telegraphic) Berlin, October 28, 1904.

With reference to your Lordship's telegram of yesterday's date, German Admiralty have informed Naval Attaché that they know nothing concerning acquisition and equipment of torpedo-boats by Japanese agents on these coasts.

They are further not aware that any of their torpedo-boats or torpedo destroyers were in the neighbourhood of the Dogger Bank on the night of the Russian attack, but have applied for definite information from the Commander-in-chief of the North Sea Station.

Mr. Leech to the Marquess of Lansdowne. — (Received October 28.)

(Telegraphic.) Copenhagen, October 28, 1904.

Your Lordship's telegram of yesterday.

The Danish Government state that there were no Danish torpedo-boats or destroyers near the scene of the incident on the night of the 21st—22nd.

Further, they have no knowledge of torpedo-boats or destroyers having been acquired or equipped by Japanese Agents anywhere on the Danish coast.

The Marquess of Lansdowne to Sir C. Hardinge.

(Telegraphic.) Foreign Office, October 28, 1904.

Your Excellency's telegram of to-day.

The text of Count Lamsdorff's proposal was communicated to me by the Russian Ambassador after the meeting of the Cabinet.

I told his Excellency that the Emperor's proposal had already been carefully considered by the Cabinet, and was in accord with the suggestion I had made to him on behalf of His Majesty's Government yesterday. It, however, left certain sides of the question untouched. Mr. Balfour was to deliver a speech at Southampton this evening, and I, therefore, asked his Excellency whether I had his sanction to authorize the Prime Minister to make a statement to the following effect:

The Emperor and the Russian Government, on hearing of the incident, at once expressed their profound regret. Liberal compensation was promised.

The part of the fleet concerned has been detained at Vigo, so that it may be possible to ascertain the responsible officers, who, together with any material witnesses, will not be allowed to proceed with the fleet.

An inquiry will be instituted into the facts, such inquiry to be held by an International Commission of the kind contemplated by the Hague Convention. Any persons found guilty will be tried by the Russian Government and punished adequately.

Instructions will be issued by the Russian Government, so as to secure neutral commerce from risk of interference and prevent the repetition of such incidents.

Count Benckendorff said that I was at liberty to authorize Mr. Balfour to make a statement on these lines.

I entered a protest against the doctrine, which Admiral Rostjestvensky was said to hold, that his officers were justified in firing on any boat that came near their ships, and I urged upon his Excellency the importance of special instructions being issued to the Admiral in the interests not only of British, but of neutral commerce of all nations.

The Marquess of Lansdowne to Sir C. Hardinge.

Foreign Office, October 28, 1904.

Sir,

The Russian Ambassador called upon me this morning at 11 o'clock.

His Excellency informed me that he had just received a telegram from Count Lamsdorff to the effect that telegraphic instructions had been sent to Admiral Rostjestvensky to remain at Vigo until he received further instructions, with the vessels in the presence of which the North Sea incident had taken place, with a view to the necessary elucidation of the facts.

The Russian Government were convinced that in these circumstances the Spanish Government would not raise any objection to the prolongation of the stay of part of the fleet at Vigo. His Excellency expressed a hope that His Majesty's Government would intimate to the Spanish Government that they would raise no objection to the Russian ships remaining at Vigo for this purpose. I replied that I would instruct Sir E. Egerton to this effect.

His Excellency dwelt upon the great importance of the decision he had announced, which would have the effect of avoiding the difficulties which might have arisen had the whole Russian fleet pursued its voyage immediately. His Excellency told me that he had also received telegrams from Count Lamsdorff, in which he was instructed to ascertain the ideas of the British Government in regard to the manner in which any preliminary inquiry which might be held at Vigo should be conducted, and, secondly, how we proposed that the subsequent inquiry at St. Petersburgh should be organized? Count Lamsdorff wished us to understand that he objected to any arrangement which would give the British Government „control" over the proceedings. His Excellency explained that these telegrams were none of them in reply to that which he had sent yesterday at my instance, proposing an investigation of the facts by an independent tribunal. I replied that the inquiries which would be instituted at Vigo seemed to me to concern the Russian authorities, whose duty it would be to single out and detain any persons who were responsible for the attack on the fishing fleet, or whose testimony was, in their opinion,

necessary for the purposes of the subsequent proceedings. I had already explained to him that we had only asked to be given an opportunity of watching any proceedings which might take place at St. Petersburgh, and seeing that the evidence for the British case was properly put forward. I pointed out, however, that the proposal for an International inquiry, which we had lately been discussing, would if adopted, dispose of the difficulty.

His Excellency dwelt with much earnestness upon the necessity of treating this difficult question in a conciliatory spirit. He trusted that the Prime Minister, in the speech which he was to deliver this evening, would give the Russian Government credit for having with the utmost promptitude expressed its regret for the incident, and proposed compensation upon the most liberal scale for the sufferers. As for the rest, they merely asked that the Admiral's Report might be awaited. They had never repelled any of our suggestions („n'avaient jamais rien repoussé"), and they had dealt as expeditiously as possible with our representations. A certain amount of delay was however inevitable. It seemed to him that if the Prime Minister was able to say something of this sort, and further, that the responsible section of the fleet had been ordered to remain at Vigo pending an inquiry as to the persons who were responsible for the attack, that a full and searching inquiry would then be held as to the whole of the facts, and that any persons found guilty of misconduct would be placed upon their trial and adequately punished, public opinion in this country ought to be satisfied.

I told his Excellency that I should not fail to report what he had said to the Prime Minister, who would, I felt sure, endeavour to avoid exasperating public opinion either here or abroad.

His Excellency called upon me again this afternoon immediately after the sitting of the Cabinet, and brought with him a communication, of which he allowed me to take a copy, from Count Lamsdorff, which ran as follows:

„Désirant jeter le plus de lumière possible sur tout ce qui s'est passé dans la Mer du Nord, l'Empereur trouverait utile de déférer l'examen scrupuleux de cette question à une Commission Internationale d'Enquête prévue par la Convention de La Haye. D'ordre de Sa Majesté, votre Excellence est invitée à proposer ce mode de solution au Gouvernement de Sa Majesté Britannique."

I told his Excellency that the question had been carefully examined by the Cabinet, and that the proposal now made by Count Lamsdorff was in accord with that which I had yesterday expressed the willingness of His Majesty's Government to accept. It dealt, however, only with a part of the question before us, and it was necessary that there should be no misunderstanding with regard to the remaining points. I asked his Excellency whether I had his authority to authorize Mr. Balfour ta make a statement, should he desire to do so, upon the following lines:

„The Russian Government, on hearing of the North Sea incident, at once expressed their profound regrets. The Russian Emperor telegraphed to the King in the same sense.

The Russian Government also promised the most liberal compensation:

They have now ordered the detention at Vigo of that part of the fleet which was concerned in the incident, in order that the Naval authorities may ascertain what officers were responsible for the incident.

These officers and any material witnesses will not proceed with the fleet on its voyage to the Far East.

An inquiry will be instituted into the facts. The Russian Government consider that for this purpose it would be useful to entrust this inquiry to an international Commission of the kind provided for by The Hague Convention.

Any persons found guilty by this Tribunal, will be tried by the Russian Government and punished adequately.

The Russian Government undertake that precautions will be taken to guard against the recurrence of such incidents, and with this object special instructions will be issued to the whole Russian fleet, so as to secure neutral commerce from all risk."

His Excellency said that I was at liberty so to inform the Prime Minister.

In regard to the question of punishment, he observed that it was of course understood that the same course would be followed by any other Government whose subjects or officers should be found to be guilty.

I dwelt upon the importance of issuing special instructions to the Russian fleet, with the object of avoiding a recurrence of such incidents as that which had occurred in the North Sea. I explained that I urged this demand in the interests not only of British, but of neutral commerce generally. I referred his Excellency particularly to the statement contained in your telegram of the 27th instant, from which we learned that the Russian Admiral had reported to the Minister of Marine that „even in time of peace no warship could have acted otherwise" than the Russian vessels which had attacked our trawling fleet. I had noticed apparently authentic statements in the French press to the effect that Admiral Rostjestvensky claimed to have acted in conformity with the instructions given to him at the time of starting. It was stated that the officers in command of the fleet knew when they left Libau that they had to fire upon every boat that came near their squadron. If instructions of this kind had been issued, and remained in force, the presence of the Russian fleet was a menace to neutral commerce in any seas through which it might pass. We considered it our duty to protest against this doctrine, and I was glad to understand from His Excellency that measures would be taken with the object of impressing upon the Russian navy a very different view of their duties as belligerents.

I am, &c.

(Signed) *Lansdowne.*

The Marquess of Lansdowne to Sir E. Egerton.

(Telegraphic.) Foreign Office, October 28, 1904.

North Sea incident.

The Russian Government are about to institute an inquiry for the purpose of ascertaining what officers of the Baltic Squadron were responsible for the recent attack on the British fishing fleet, and have applied to the Spanish Government for permission for part of the fleet to remain at Vigo for the present, in order to facilitate that inquiry.

You should express the hope to the Spanish Government that they will think proper to grant the necessary permission, as it will be desirable, in the circumstances, for the fleet to be allowed to remain in Vigo Bay for a reasonable time.

Sir E. Egerton to the Marquess of Lansdowne. — (Received October 28.)

(Telegraphic.) Madrid, October 28, 1904.

I am informed by the Minister for Foreign Affairs that he has received a request this morning that, in order that an examination may be held into the circumstances of the fatal mistake in the North Sea, permission might be given for the Russian men-of-war, which four days ago had put into Vigo in order to repair demages to their engines, to remain there for a few days longer.

Señor Rodriguez San Pedro stated that he had willingly given his consent.

The Marquess of Lansdowne to Sir C. Hardinge.

Foreign Office, October 28, 1904.

Sir,

I informed the Russian Ambassador to-day that a Board of Trade inquiry would be held into the circumstances under which the ships of the Hull fishing fleet were lost or injured. I added that I was authorized to tell his Excellency that every facility would be given to any Representative whom the Russian Embassy might depute for the purpose of watching these proceedings.

I am, &c.
(Signed) *Lansdowne.*

Sir C. Hardinge to the Marquess of Lansdowne. — (Received October 29.)

St. Petersburgh, October 25, 1904.

My Lord,

I requested Captain Calthorpe to go to the Ministry of Marine and to present from me to an Admiral in a responsible position a note containing the information that British trawlers were engaged in fishing off Finisterre, Vigo, and Oporto.

Captain Calthorpe fulfilled his instructions by handing my note to Admiral Wirenius, Chief of the Naval Staff, and I have the honour to inclose herewith Captain Calthorpe's report of his conversation with him on the subject of the whereabouts of the Baltic fleet.

Your Lordship will note Admiral Wirenius' statement that no communication had been received from Admiral Rostjestvensky since the Baltic fleet left Copenhagen.

I have, &c.
(Signed) *Charles Hardinge.*

Inclosure.

Captain Calthorpe to Sir C. Hardinge.

St. Petersburgh, October 25, 1904.

Sir,

I have the honour to report that, in accordance with your Excellency's instructions, I went this morning to the Admiralty and had an interview, at 11·30 A.M., with Rear-Admiral Wirenius, Chief of the Staff.

I informed his Excellency that, acting on your instructions, and with the view of preventing the possibility of any further regrettable incidents, I begged to hand him a note pointing out that British trawlers were known to be off Finisterre, Vigo, and Oporto.

I suggested to the Admiral the great importance of taking steps at once to communicate this information to Vice-Admiral Rostjestvensky, adding that your Excellency was handing a similar note to the Minister of Foreign Affairs to-day, but to prevent any possible delay, and to make it quite certain that the Admiralty were aware of its contents and could act immediately, you had considered it advisable to furnish them also with a copy.

Rear-Admiral Wirenius read the note, told me that he would give it personally to the Minister of Marine, and that he would make every endeavour to transmit to Admiral Rostjestvensky the information it contained. „But", he said, „our great difficulty is that we cannot communicate with him directly; we have no possible means of doing so." The Admiral explained that the squadron was not going to touch anywhere, except, perhaps, at „quiet places, where there were no telegraphs", to coal, &c.

I pointed out to his Excellency that if the Russian Admiralty had taken the step of allowing their squadron to make the passage without being able to communicate, the onus of responsibility rested on them; and, in the instance under discussion, our Government had done all they could to warn them of the probable positions of our trawlers. This he at once admitted, and remarked that he might possibly be able to catch the squadron by telegraphing to Finisterre, but that it was extremely doubtful, and his only other means of communication was by colliers, but in that case a message might easily take weeks to arrive. His Excellency then referred to the firing on the trawlers off Dogger Bank. He told me that they had not received a word of information of any sort a kind from

Admiral Rostjestvensky since the receipt of a despatch left at Copenhagen, which had just arrived. All they knew, and that from English sources, was that the squadron had passed Dungeness.

The Admiral asked me if we had any official information, and I told him that your Excellency had this morning received a telegram from the Foreign Office which substantiated the press reports of what had taken place.

Admiral Wirenius remarked that neither he nor Admiral Avellan (the Minister) could understand how such an incident could possibly have occurred, and he could hardly credit that something more had not happened than what was stated in the papers. He said they had been in possession for a considerable time of quite reliable information that the Japanese had been elaborating methods of attacking the squadron during their passage, under cover of fishing and other vessels, and that no doubt Admiral Rostjestvensky had sailed with serious warnings on this subject impressed on his mind.

The Admiral repeated that they were anxiously waiting for news from Admiral Rostjestvensky, which he was sure would tend to clear the matter up, and repeated how grieved all at the Admiralty were at what had taken place, and that they earnestly hoped that all would be settled without matters reaching a crisis, and he again promised that every endeavour should be made to communicate the note to the squadron. I thanked his Excellency and withdrew.

I have, &c.

(Signed) *Arthur Gough Calthorpe,*
Captain, R. N.

The Marquess of Lansdowne to Sir C. Hardinge.

(Telegraphic.) Foreign Office, October 29, 1904.

North sea incident.

Your telegram of yesterday.

The passage in my telegram of the 28th instant, as to punishment, is a textual reproduction of the note which I wrote in the presence of the Russian Ambassador, and read over to him before I communicated it to Mr. Balfour for use in his speech of last night.

Count Lamsdorff's views as to the question of the trial and punishment of any individual found guilty, are, I understand, that it will not arise until the conclusion of the inquiry, and the statement on this point in my note is consistent with the views he has expressed.

His Majesty's Government appreciate highly Count Lamsdorff's reference to the manner in which they have dealt with this question, and, in informing his Excellency of this, I should like you to say how admirably Count Benckendorff has seconded His Majesty's Government's efforts. His Excellency has been untiring in endeavouring to arrive at a solution acceptable to both sides, while energetically upholding the interests of his country.

The Marquess of Lansdowne to Sir C. Hardinge.

(Telegraphic.) Foreign Office, October 29, 1904.

We have made inquiries as to the alleged arrival in Hull a short time ago of Japanese officers, to which Count Lamsdorff referred, as reported in your telegram of 27th October.

It has been proved that there is no foundation for such reports.

The Marquess of Lansdowne to Sir C. Hardinge.

(Extract.) Foreign Office, October 29, 1904.

I Mentioned to the Russian Ambassador to-day a subject which had been much in my thoughts. We had, fortunately, been able to dispose for the moment of the critical question which had caused us both so much anxiety during the last few days, and I did not see why there should be any difficulty in dealing with the further phases of the case.

I owned, however, that I lived in dread of new troubles arising. The Russian Government had undertaken to issue instructions to guard against the recurrence of such events as that of the 21st instant, and I felt sure that they would know how to secure compliance with their orders. Count Lamsdorff no doubt realized as thoroughly as we did that it had not been without the greatest difficulty that we had avoided a conflict. In endeavouring to do so, we had gone as far as we dared—further than many of our friends would have liked us to go. I would not, in these circumstances, dwell upon the results of a repetition of the North Sea incident.

There was, however, another peril against which it was our duty to guard. The Russian fleet was, I understood, about to proceed on its way to the Far East, partly round the Cape and partly through the Suez Canal. If, during its long voyage, the Russian Captains considered themselves justified in a wholesale seizure of vessels suspected of carrying contraband, public feeling in this country would become uncontrollable. Important questions of international law connected with this subject were at this moment being discussed in no unfriendly spirit between the two Governments. It would be deplorable if at such a time a multitude of British prizes were seized upon the assumption that the Russian, and not the British, interpretation of the law was to prevail, and were sent up the channel and past our shores for adjudication in Russian Prize Courts. I asked his Excellency to say a few words upon this subject to Count Lamsdorff if he thought fit. I was not making any complaint, or asking for any further pledges, but merely giving a friendly warning in the interest of those good relations which Count Lamsdorff was, I knew, as anxious to preserve as I was myself.

Count Benckendorff observed, in reply, that in his belief the instructions already issued by the Russian Naval authorities rendered it highly

improbable that seizures would be made of such a kind as I mentioned. His own impression was that the fleet would proceed to its destination as rapidly as possible without troubling itself about searches for contraband.

Sir C. Hardinge to the Marquess of Lansdowne. — (Received October 31.)

(Extract.) St. Petersburgh, October 26, 1904.

On Monday morning several telegrams from London reached St. Petersburgh, giving full details of the attack made by the Baltic fleet on the British fishing vessels on the Dogger Bank in the North Sea on the night of 8th October (o. s.).

I called immediately on Count Lamsdorff, and I asked his Excellency whether he could offer me any explanations of what, if the press telegrams were correct in their information, could only be regarded as an attack on the part of the Baltic fleet on a peaceful and inoffensive British fishing fleet.

Count Lamsdorff said that the news had moved him very much, but that he knew nothing beyond what had appeared in the press telegrams, and that the Ministry of Marine had so far received no information from Admiral Rojdestvensky.

I impressed upon his Excellency that, in my opinion, the situation which had been created was one of extreme gravity; that public opinion in England would most justifiably resent this attack on peaceful British subjects; and that although I had so far received no instructions from your Lordship, I counselled him as a friend, with a view to maintaining friendly relations between the two countries, which I knew to be equally his desire and my own, to lose no time in making a declaration under all reserve that if, after careful inquiry, any officers of the fleet were proved to have been in fault, they would be severely punished and full reparation made to the victims and their families. I added that if such a declaration was made in the name of the Emperor it might be conducive to calming public opinion in England pending the receipt of full explanations from the Admiral. The situation must inevitably be one of great tension, and prompt and energetic action on the part of the Russian Government was, in my opinion, absolutely necessary. The fact that a Russian fleet had fired on a harmless flotilla of fishing boats was indisputable, and it now remained for the Russian Government to explain the action of their Naval Commanders, and to justify it in the eyes of the world if such justification should be possible.

Count Lamsdorff replied that the only information in the hands of the Government was that given by the fishermen, who were naturally in a panic-stricken condition, and that until a report had been received from Admiral Rojdestvensky it was quite impossible to accept it as correct. He assured me, however, that a full inquiry would be made into the circumstances of the occurrence, which he felt sure must be due to some

terrible misunderstanding; that the Russian Government would not tolerate for an instant any action on the part of their naval officers such as seemed at first sight to have taken place; and that if any persons were found on investigation to be guilty of such action, adequate punishment would follow and full reparation to all the unfortunate people who had suffered by it. Beyond this it was impossible to say anything until Admiral Rostjestvensky's report had been received, which he hoped would shortly be forthcoming.

Yesterday afternoon Count Lamsdorff called at the Embassy and informed me that he had just returned from Tsarskoe Selo, and that he had been charged by the Emperor to ask me to convey to the King and His Majesty's Government his sincere regrets for the sad loss of life which had occurred. His Majesty having received no news from the Admiral in command of the Baltic fleet could only attribute the incident which had occurred in the North Sea to a most regrettable misunderstanding, but as soon as light had been thrown on the circumstances surrounding the incident complete reparation would be made to the sufferers.

Count Lamsdorff asked me at the same time to convey his personal regrets to your Lordship for an incident which, to him, seemed incomprehensible, and which was so at variance with his own feelings af friendship towards His Majesty's Government.

I replied that I would not fail to transmit at once the messages which had been confided to me to the King and His Majesty's Government

I then gave to Count Lamsdorff a translation of your Lordship's telegram of the 24th instant, containing the information received by His Majesty's Government respecting events in the North Sea, and the views of His Majesty's Government upon them and upon the demands which will be formulated later.

Count Lamsdorff read it carefully, and at its conclusion remarked that it confirmed the news which had already appeared in the press, I assented, and urged upon his Excellency that a satisfactory solution of this question was a matter which admitted of no delay.

His Excellency further assured me that he would not lose a moment in communicating to me any information which might be received from the Admiral of the Baltic fleet, and shortly atterwards left the Embassy.

This morning I again sent Captain Calthorpe to the Admiralty to inquire of Admiral Avelane or Admiral Wirenius if any report had yet been received from Admiral Rojestvensky, or if there was any probability of information from him reaching St. Petersburg within the immediate future.

Admiral Wirenius, who received Captain Calthorpe, stated that orders had been sent to the Russian Embassy at Madrid to hire at once a fast vessel at Vigo, and to send the Russian Consul on board of her to intercept, if possible, the Admiral of the Baltic fleet. Captain Calthorpe inquired as to the message given to the Consul, and the Admiral replied that it was to inform the Admiral of the presence of British trawlers at

various points on the coast of Spain and Portugal. Upon Captain Calthorpe asking if the Consul was at the same time to ask for a report upon what had occurred in the North Sea, Admiral Wirenius said that no such demand had been made by the Ministry of Marine, and that it would be useless to do so, since Admiral Rostjestvensky would be sure to send in the report.

As this statement appeared to me to be unsatisfactory, I addressed a note to Count Lamsdorff, in which I recounted what had been told to Captain Calthorpe at the Ministry of Marine, and stated my opinion that the steps taken to obtain the requisite explanations of the action of Admiral Rostjestvensky were scarcely adequate.

Sir C. Hardinge to the Marquess of Lansdowne. — (Received October 31.)

St. Petersburg, October, 27, 1904.

My Lord,

I have the honour to transmit to your Lordship herewith copies of two telegrams communicated to me by Count Lamsdorff, which have been received by the Russian Admiralty from Admiral Rostjestvensky.

I have, &c.
(Signed) *Charles Hardinge.*

Inclosure.

Telegrams from Admiral Rostjestvensky to Russian Admiralty.

(1.)

Le Comte Lamsdorff m'a fait inviter à prendre les mesures nécessaires pour protéger les pêcheurs Anglais près de Vigo.

L'escadre a rencontré plusieurs centaines de pêcheurs et leur a témoigné tous les égards d'usage, sauf dans le cas où les pêcheurs étaient en compagnie avec des torpilleurs étrangers, l'un desquels a disparu et l'autre, d'après les dépositions des pêcheurs eux-mêmes, est resté parmi eux jusqu'au matin. Ils l'ont pris pour un bâtiment Russe et étaient indignés qu'il ne venait pas au secours des blessés, mais il était étranger et restait jusqu'au matin pour retrouver son compagnon ou pour réparer ses avaries. Il craignit évidemment de trahir son origine à ceux qui n'étaient pas complices. Si sur les lieux se seront trouvés aussi des pêcheurs imprudemment entraînés dans l'entreprise, je prie d'exprimer, au nom de toute l'escadre, aux malheureuses victimes les regrets les plus sincères. Dans les conditions indiquées aucun bâtiment de guerre n'aurait pu agir autrement, même en temps de paix profonde.

(2.)

L'incident dans la Mer du Nord a été provoqué par deux torpilleurs, qui, les feux éteints et protégés par l'obscurité, se disposaient à attaquer

le vaisseau de tête de l'escadre. Quand l'escadre a commencé d'abord à donner des signaux de guerre et ensuite à tirer, plusieurs autres petits bâtiments à vapeur, ressemblant aux vapeurs de pêche, furent découverts. L'escadre a tâché de ménager ces bateaux et a cessé le feu dès que les torpilleurs avaient disparu. La presse Anglaise est révoltée de ce qu'un torpilleur laissé jusqu'au matin par l'escadre sur les lieux de l'incident n'a pas porté secours aux naufragés. Or, parmi les bâtiments de l'escadre il n'y avait pas un seul torpilleur, et pas un seul n'a été laissé sur les lieux de l'incident; par conséquent, celui resté jusqu'au matin auprès des petits bateaux à vapeur était un des deux torpilleurs ennemis qui n'avait pas coulé et qui n'était qu'endommagé. L'escadre n'a pu porter secours aux petits bateaux à vapeur qui pouvaient être soupçonnés de complicité, vu leurs tentatives obstinées de rompre la ligne de nos bâtiments. Il y a eu des bataux qui n'ont pas du tout allumé de feux, les autres très tard.

Sir H. Howard to the Marquess of Lansdowne. — (Received October 31.)

The Hague, October 28, 1904.

My Lord,

With reference to your Lordship's telegram of last night in connection with the subject of the attack of the Russian fleet on British trawlers off the Dogger Bank during the night of Friday, the 21st instant, I have the honour to transmit herewith copies of the note of which I addressed to the Netherland Government in compliance with the instructions contained in your Lordship's above-named telegram, and of the reply thereto which I have received from the Minister for Foreign Affairs.

It will be seen that, in this reply, it is stated that the Minister of Marine reports that no torpedo-boats or torpedo destroyers of the Netherland Royal Navy were in the North Sea on the night in question, and that the Minister for Foreign Affairs likewise states that the Netherland Government have no information whatever in regard to the acquisition or equipment of torpedo-boats or torpedo destroyers by Japanese agents on any point of the coasts of the Netherlands.

I have, &c.

(Signed) *Henry Howard.*

Inclosure 1.

Sir H. Howard to Baron de Lynden.

The Hague, October 28, 1904.

M. le Ministre,

I Have the honour to acquaint your Excellency that I have received telegraphic instructions from the Marquess of Lansdowne to inquire at once of the Netherland Government whether, on the night of Friday, the 21st instant, when the attack by the Russian fleet on the British trawlers took

place, any torpedo-boats or torpedo destroyers of the Netherland navy were in the North Sea in the vicinity of the Dogger Bank, as also whether the Netherland Government have any information in regard to the acquisition and equipment of any torpedo-boats or torpedo destroyers by Japanese agents at any point of the Netherland coasts.

While venturing to request your Excellency to kindly cause me to be furnished with replies on these points at the very earliest possible moment,

I avail, &c.
(Signed) *Henry Howard.*

Inclosure 2.

M. Hannema to Sir H. Howard.

La Haye, le 28 Octobre, 1904,

M. le Ministre,

En réponse à l'office de votre Excellence d'aujourd'hui, je m'empresse de lui faire connaître que, d'après les renseignements reçus en ce moment du Ministre de la Marine, aucun torpilleur ou contre-torpilleur de la Marine Royale Néerlandaise ne s'est trouvé dans les eaux de la Mer du Nord pendant la nuit du 21 Octobre dernier.

Quant à la question posée par votre Excellence en second lieu, je suis à même de communiquer que le Gouvernement Néerlandais n'a reçu aucune information quelconque concernant l'acquisition ou l'équipement de torpilleurs ou de contretorpilleurs par des agents Japonais sur quelque point de la côte des Pays-Bas.

Veuillez, &c.
(Signé) *Hannema.*

(Translation.)

The Hague, October 28, 1904.

Sir,

In reply to your Excellency's communication of this day, I hasten to inform you that, according to the information just reeeived from the Minister of Marine, no torpedo-boat or torpedo-destroyer of the Royal Netherland Navy was present in the North Sea during the night of the 21st October last.

As regards the second question asked by your Excellency, I am in a position to state that the Netherland Government have received no information whatever regarding the acquisition or equipment of torpedo-boats or torpedo-destroyers by Japanese Agents at any point of the coasts of the Netherlands.

I have, &c.
(Signed) *Hannema.*

Admiralty to Foreign Office. — (Received October 31.)

Admiralty, October 29, 1904.

Sir,

I am commanded by my Lords Commissionners of the Admiralty to transmit herewith, for the information of the Marquess of Lansdowne, a

copy of a Report dated the 24th instant from the Inspecting Officer of His Majesty's Coast Guard, Hull Division, relative to the damage done to the steam-trawlers „Moulmein" and „Mino" by the Russian Baltic Fleet.

I am, &c.

(Signed) *Evan Macgregor.*

Inclosure.

Lieutenant Sankey to the District Captain, Harwich.

Hull, October 24, 1904.

Sir,

I have the honour to report that I visited the steam-trawlers „Moulmein" and „Mino," lying in St. Andrew's Dock, Hull, and saw as follows:

The „Moulmein", — On her starboard side, in line with the after end of the engine room casing, I found two shot holes, made by, I am of opinion, a 7-inch projectile (probably a ricochet); this projectile came out again through the top of the same casing.

On the starboard bow there is a hole made apparently by a 3-pr. quick-firing gun projectile, which appears to have passed out on the port bow.

On the port bow, a 3-pr. projectile came in close to the exit of the one just previously mentioned.

In the case of the „Mino". — On the port side of the forecastle hatch three 3-pr. shot marks are visible, two shot went through the casing, and one apparently fell below after striking the galley funnel.

There are two 3-pr. shot holes on the port side which went out on the starboard side, carrying away the funnel stanchion. On the port side aft (entrance to cabin) a 3-pr. shot, fired apparently from a ship on the port quarter, pierced the bulkhead, passed through the heel of the mizzen mast, through the engine room casing, through the otter board on the starboard side of engine room casing and overboard.

The engine room skylight is broken apparently also by a 3-pr. shot.

The foremost lower deadeye of the starboard mizzen rigging is carried away by apparently also a 3-pr. shot.

On the port side, in line with the bridge, there are two shot marks of 3-pr. shot, in the plate below the shear streak (letter G) made by apparently two 3-pr. quick-firing gun. One of these shot pierced the side and is supposed to be still amongst the coal in the coal bunker, the other shot did not penetrate, and only left a mark on the ship's side, and is supposed to have fallen overboard.

I have, &c.

(Signed) *E. R. Sankey.*

Admiralty to Foreign Office. — (Received October 31.)

Admiralty, October 31, 1904.

Sir,

In continuation of my letter of the 27th instant, I am commanded by my Lords Commissioners of the Admiralty to request that you will inform the Marquess of Lansdowne that it has been ascertained that no torpedo-boats belonging to His Majesty's fleet were in the North Sea between Friday afternoon (21st instant) and Monday (24th instant).

I am, &c.

(Signed) *Evan Macgregor.*

The Marquess of Lansdowne to Sir C. Hardinge.

(Telegraphic.) Foreign Office, October 31, 1904.

I learn from the Russian Ambassador that the officers who would have to give evidence before the International Commission have been ordered to land at Vigo immediately. They will proceed, together with the Russian Commissioner, to the place of meeting of the Commission. Count Benckendorff informed me that under these circumstances there was no reason why the Russian ships should be detained any longer at Vigo.

In reply to this communication, I stated that His Majesty's Government must be satisfied on the following points:

1. That instructions had actually been issued to the Russian fleet to avoid a recurrence of similar incidents.

2. Information as to the rank and position of the officers landed.

3. Settlement of terms of reference to the International Commission. His Majesty's Government consider it essential that the Commission should be authorized to apportion responsibility and blame.

Count Benckendorff expressed strong objection to these stipulations, but promised to telegraph them at once to his Government. You should point out to Count Lamsdorff the reasonableness of them.

His Excellency was particularly sensitive in regard to the question of punishment. I explained to him that the view of His Majesty's Government was that it would be for the Russian Government to inflict punishment, but that it was a necessary condition that the blame should be apportioned by the Commission. Moreover, as the defence set up by Russia impugns not only the conduct of the fishing fleet, but also the manner in which His Majesty's Government have observed neutrality, this stipulation cannot be considered one-sided.

The Marquess of Lansdowne to Sir C. Hardinge.

(Telegraphic.) Foreign Office, October 31, 1904.

Following is substance of proposed Agreement for terms of reference to International Commission:

Preamble, after short recital of facts and damage done, states that two Governments agree that elucidation of questions in dispute shall be referred

to an International Commission of Inquiry analogous to that provided for in Articles IX to XIV of Hague Convention, and that following Articles are agreed to:

Article I. The Commission to consist of five members. Two to be officers of high rank in navies of Great Britain and Russia. France and the United States each to be asked to select one Commissioner, who is to be an officer of high rank in their respective navies. Fifth Commissioner to be selected by agreement between four above mentioned, and, if they cannot agree, choice is to be intrusted to King of (country not yet settled).

Art. II. „The Commission shall inquire into and report upon all the circumstances attending the disaster in the North Sea, and particularly as to where the responsibility for the disaster lies, and the degree of blame which attaches to those upon whom that responsibility is found to rest."

Art. III provides that Commission shall settle in all respects procedure to be adopted.

Art. IV is an engagement by both Parties to supply Commission in fullest manner possible with all necessary means and facilities.

Art. V. Commission to meet at Paris as soon as possible after signature of Agreement.

Art. VI. Report of Commission to be communicated to each of the Parties.

Further provisions will probably be required with regard to

1. Decision by majority.
2. Legal Assessors and Agents.
3. Division of expenses.

The Marquess of Lansdowne to Sir C. Hardinge.

(Extract.) Foreign Office, October 31, 1904.

The Russian Ambassador made to me to-day a statement to the following effect:

His Excellency had been informed yesterday by the Russian Government that orders had been sent to Admiral Rostjestvensky that the officers who would have to be witnesses before the International Commission agreed upon by the British and Russian Governments should be landed at Vigo immediately. These officers should proceed to the place where the Commission was to meet, together with the Admiral appointed to sit as Russian Commissioner.

In these circumstances, there was no reason why a part of the squadron commanded by Admiral Rostjestvensky should remain any longer at Vigo.

I told his Excellency that the terms of his communication suggested comments, which I proceeded to make.

I observed, in the first place, that the orders transmitted to Admiral Rostjestvensky had reference only to those officers who would be required to give evidence before the proposed International Commission. I assumed,

of course, that this description included not only the officers whose presence as witnesses would be necessary, but those who had been ascertained by the Russian naval authorities to have been responsible for the attack upon the fishing fleet.

I also assumed that the Admiral who was to be designated as Russian Commissioner, and who was to accompany the detained officers, would be an Admiral who had taken no part in the proceedings of the fleet. His Excellency said that there could be no doubt upon this point.

I went on to say that it was, in my opinion, necessary that we should be satisfied upon the following points:

1. We had a right to ask the Russian Government to inform us officially that instructions had been actually issued by the Russian naval authorities to the whole of their fleet for the purpose of avoiding a recurrence of incidents such as that which had occurred in the North Sea. His Excellency would recollect that he had authorized me to inform the Prime Minister that this would be done, and we attached the greatest importance to the point.

2. We had been officially informed by the Russian Government that the Admiral was to remain at Vigo with a portion of the fleet for the express purpose of designating the officers who were responsible for the attack. I gathered from his Excellency's statement that this investigation must already have taken place, with the result that certain individuals had been thus designated, and I had been informed by our Ambassador at St. Petersburgh that His Imperial Majesty the Emperor, who had been pleased to accord an audience to Sir Charles Hardinge, had stated that four or five officers had been detached from the squadron, and would return at once to St. Petersburgh. Although it was impossible for His Majesty's Government to assume any responsibility for the selection of the officers who might be designated, we felt sure that the Russian Government would understand our desire to have some information as to the rank and position of those officers.

3. His Majesty's Government considered that the terms of reference to the International Commission should be settled immediately, and they suggested the inclosed draft which they were prepared to accept in principle.

We considered it essential that the Commission should be authorized to apportion reponsibility and blame.

This was indeed a necessary condition, as we understood that the Russian Government had promised to punish adequately any persons who might be found by the Commission to have been responsible for the disaster, and to whom, in their opinion, blame attached.

The Commission should be convened and should commence and complete its investigations as soon as possible. For this reason, we considered that each side should use every effort in order to furnish the Commission with the necessary evidence. It would be most unfortunate if, owing to the absence of important witnesses, the Commission were to find itself obliged to adjourn its proceedings.

The Russian Ambassador told me that he feared that the proposals which I had made to him would be regarded by the Russian Government as impugning their good faith. His Excellency was particularly sensitive in regard to the question of the punishment of the officers who were responsible for the incident. I explained to him that, in our view, the punishment would have to be inflicted by the Russian Government, but that it was indispensable that the Commission should be authorized to deal with the question of blame. The stipulation was not one-sided, for the defence made by the Russian Admiral was an imputation on the manner in which our neutrality had been observed, as well as upon the conduct of the fishing fleet.

Inclosure.

Draft of Proposed Agreement for reference to International Commission of Inquiry.

Whereas, during the night of the 21st to 22nd October, 1904, a British steam-fishing fleet, while engaged in fishing off the Dogger Bank in the North Sea, was fired upon by vessels forming part of the Russian Baltic fleet; and whereas this action has resulted in the total loss of one of the fishing-boats and the death of two persons, as well as damage to other vessels of the fleet and injuries to members of the crews of the said fleet; and whereas a difference of opinion has arisen between the Government of His Britannic Majesty and the Government of His Imperial Majesty the Emperor of Russia in connection with this incident:

The Undersigned, being duly authorized thereto by their respective Governments, agree that the elucidation of the questions in dispute shall be referred to an International Commission of Inquiry analogous to that provided for in Articles IX to XIV of the Convention signed at the Hague on the 29th July, 1899.

It is also hereby agreed as follows:

Article I.

The International Commission of Inquiry shall consist of five Commissioners, and shall be constituted in the following manner: Two of the Commissioners shall be officers of high rank in the navies of Great Britain and Russia respectively. The Governments of France and the United States shall each be requested to select one Commissioner, who shall be an officer of high rank in the French and United States' navies respectively. The fifth Commissioner shall be selected by agreement between the four Commissioners above mentioned, and, if they cannot agree, the choice shall be intrusted His Majesty the King of . . . . .

Article II.

The Commission shall inquire into and report upon all the circumstances attending the disaster in the North Sea, and particularly as to where the responsibility for the disaster lies, and the degree of blame which attaches to those upon whom that responsibility is found to rest.

Article III.

The Commission shall settle in all respects the procedure to be adopted by them for carrying out the duties imposed upon them by this Agreement.

Article IV.

Each of the High Contracting Parties engages to supply the Commission in the fullest manner possible with all means and facilities necessary to enable it to perform its duties.

Article V.

The Commission shall meet at Paris as soon as possible after the signature of this Agreement.

Article VI.

The Commission shall communicate its Report to each of the High Contracting Parties.

Mr. Leech to the Marquess of Lansdowne. — (Received November 1.)

Copenhagen, October 28, 1904.

My Lord,

With reference to my telegram of to-day's date, I have the honour to transmit to your Lordship herewith a copy of a Memorandum which I have received from the Danish Ministry for Foreign Affairs, stating that no Danish torpedo-boats or destroyers were in the vicinity of the Dogger Bank on the night of the 21st-22nd instant, and that the Danish Government know nothing concerning the acquisition or equipment by Japanese agents of any such boats anywhere on the Danish coast.

I have, &c.

(Signed) *Stephen Leech.*

Inclosure.

Memorandum.

The Danish Government have absolutely no information as to an acquisition or equipment by Japanese agents of any torpedo-boats or destroyers at any point on the Danish coast.

Absolutely no Danish torpedo-boats or destroyers were in the North Sea in the vicinity of the Dogger Bank on the night between Friday and Saturday last week.

October 28, 1904.

Sir C. Hardinge to the Marquess of Lansdowne. — (Received November 1.)

St. Petersburgh, October 28, 1904.

My Lord,

In continuation of my despatch of the 26th instant, I have the honour to report that, having received a message yesterday morning that Count

Lamsdorff desired to see me as soon as possible, I went to the Ministry for Foreign Affairs at 10 o'clock.

His Excellency communicated to me a telegram which had arrived the preceding evening from Admiral Rostjestvensky at Vigo, reporting that his squadron had been attacked by Japanese torpedo-boats which were in the company of the British fishing fleet, and explaining that the ship which was alleged to have remained for some hours without rendering assistance to the fishermen was not of Russian, but of some other foreign nationality.

His Excellency read me, at the same time, a further telegram from the Admiral describing the alleged attack of the Japanese torpedo-boats, one of which was said to have been sunk and the other damaged, the latter being supposed to be the vessel which remained behind without rendering assistance. As proof of his statement the Admiral declared that there was not a single torpedo-boat accompanying this detachment of the squadron. Copies of both these telegrams have been forwarded in my despatch of the 27th instant.

Count Lamsdorff stated that the explanations given by Admiral Rostjestvensky were in conformity with his anticipations, since he had received indisputable proofs from various quarters that Japanese Agents were preparing cowardly attempts for the destruction of the Baltic fleet in the North Sea, and the attempt in this case was of a particularly diabolical nature, since it was intended by compromising the British fishermen to embroil the relations between England and Russia. Only a few days previously he had received reliable proof of the arrival in Hull by steamer of twenty Japanese officers, who had immediately disappeared in a mysterious manner, and this was only one of the many suspicious movements and actions of Japanese Agents which had been reported to him. The statement of Admiral Rostjestvensky was fully corroborated by the details given by the captain of one of the trawlers to the English press, who said that torpedo-boats approached his boat and then retired before the commencement of the firing. The fact also that the ship which was left behind was not one of the Russian fleet was also a conclusive proof of the inaccuracy of the statements of the fishermen, and a complete refutation of the charge of inhumanity, which had been particularly painful to the Emperor and himself.

I did not consider it either useful or prudent to argue on the many points which Count Lamsdorff raised, and I confined my remarks to pointing out to his Excellency that His Majesty's Government had, in their communications to the Russian Government, simply notified what had occurred, and had asked the Russian Government for explanations of an incident of which it would be difficult to exaggerate the gravity. Without accepting the accuracy of Admiral Rostjestvensky's telegrams, I merely promised to forward them to your Lordship with the least possible delay.

I asked his Excellency whether, in the event of His Majesty's Government being of opinion that further inquiry was necessary, the Admiral would remain with his fleet at Vigo.

Count Lamsdorff replied that he courted an inquiry, and was most anxious that as much light as possible should be thrown upon this most obscure and regrettable incident. He felt confident that the Emperor would raise no objection to the prolongation of the visit of the Baltic fleet in Spanish waters, so long as the Spanish Government did not consider that by so doing they were infringing their rights as a neutral Power.

This morning, at half-past eight, I received a private letter from Count Lamsdorff, couched in conciliatory terms, informing me that, with a view to throwing as much light as possible on the circumstances of the incident which had occurred in the North Sea, orders had been sent by the Minister of Marine to Admiral Rostjestvensky to remain at Vigo with the ships which had witnessed the unfortunate affair, so as to thoroughly establish all its details. His Excellency added that circumstantial reports had been dispatched by post by the Admiral, which could only arrive in St. Petersburgh in the course of four or five days. These reports Count Lamsdorff has since promised to communicate to me as soon as they have been received.

In the afternoon I received a letter from Count Lamsdorff, on his retourn from Tsarskoe Selo, where he had had an audience of the Emperor, in which he communicated to me the text of a telegram which he had dispatched en clair from Tsarskoe Selo to Count Benckendorff, instructing him, by order of the Emperor, to propose to His Majesty's Government the examination of the incident in the North Sea by an International Commission of Inquiry, as foreseen by the Convention of The Hague. Count Lamsdorff at the same time expressed his hope that this proposal would meet with a favourable reception in London.

I immediately asked to see Count Lamsdorff, and was received shortly afterwards by his Excellency.

He asked me my opinion as to the probability of the Emperor's proposal being accepted by His Majesty's Government. I replied that there could be no doubt upon that point, since it tallied with the proposal which your Lordship had already made yesterday to Count Benckendorff, and in confirmation of my statement I read to his Excellency a translation of your Lordship's telegram of yesterday, which I had brought with me. Count Lamsdorff observed that he had received a telegram in this sense from Count Benckendorff, that he very gladly accepted this proof of your Lordship's readiness to receive favourably the proposal made by the Emperor, and that he would lose no time in discussing the composition of the Court of Inquiry, and the procedure to be adopted, as soon as he had received official confirmation of the acceptance of the proposal. He advocated that the proceedings should be as simple as possible, and that no time should be lost in putting an end to an incident which no reasonable person could do otherwise than deplore.

I remarked that since he had already informed me in writing that orders had been sent that the ships which had witnessed the incident should remain at Vigo, I presumed that, in the event of the squadron

having to leave, the officers chiefly concerned in the action taken by the Russian fleet would be detained in order to be present at the Court of Inquiry. Count Lamsdorff replied that orders will be sent at once to detach all those officers who were in the best position to give evidence of what really took place.

To my question whether the Russian Government would be reponsible for the adequate punishment of those persons who might be found guilty, Count Lamsdorff replied that he could not discuss the question of punishment, since, until the results of the inquiry were fully known, he could not admit, much as he regretted the incident which had occurred, that, after the statement made by Admiral Rostjestvensky, any blame could be attached to Russian officers. When the Court of Inquiry had completed its work and had made a report upon the circumstances of the incident, it would then be the moment to apportion responsibilities and their consequences, in whatever direction they might lie.

Count Lamsdorff expressed his great regret at the occurrence of this incident, which had caused such a serious disturbance of the friendly relations which he was so anxious to see firmly established between England and Russia, but at the same time he was pleased at the peaceful turn which had now been given to the question, and which he was anxious to see carefully maintained. He frankly admitted that this happy result was greatly due to the carefully moderated tone of your Lordship's language, to which he had been able to point when confronted with the menacing attitude of the British press, since the state of public feeling at the present moment in Russia was such that any symptom of menace by His Majesty's Government would have been deeply resented, and could hardly have failed to bring about a war which would not only have been a calamity to both peoples, but would have been a reproach to the civilization of this century.

I have, &c.

(Signed) *Charles Hardinge.*

Mr. Clarke to the Marquess of Lansdowne.—
(Received November 1.)

Stockholm, October 28, 1904.

My Lord,

I have the honour to transmit herewith a copy of the Memorandum which I received from the Foreign Department here in answer to my inquiry as to whether any Swedish or Norwegian torpedo-boats or torpedo-boat destroyers had been in the North Sea, near the Dogger Bank, at the time of the attack upon the British trawlers, and as to whether there had been any acquisition and equipment by Japanese Agents anywhere in this country or in Norway of any such vessels.

I have, &c.

(Signed) *F. S. Clarke.*

Inclosure.

Memorandum.

Aucun torpilleur ni contre-torpilleur Suédois ou Norvégien ne s'est trouvé dans la Mer du Nord pendant le mois d'octobre courant.

Le Gouvernement du Roi n'a absolument aucun renseignement sur l'acquisition ou l'équipement par des Agents Japonais de tels torpilleurs ou de tels contre-torpilleurs dans un endroit quelconque des côtes Suédoises ou Norvégiennes.

Les données à cet égard mises en avant sont considérées ici comme dénuées de tout fondement.

(Signé) *Trolle.*

(Translation.)

Memorandum.

No Swedish or Norwegian torpedo-boat or torpedo-boat destroyer has been in the North Sea during the current month of October.

The Government of the King has absolutely no information as to the acquisition or equipment by Japanese Agents of any such torpedo-boats or torpedo-boat destroyers at any place on the coasts of Sweden or Norway. The reports put forward in regard to this are considered here as devoid of any foundation.

(Signed) *Trolle.*

Sir E. Monson to the Marquess of Lansdowne. — (Received November 1.)

Paris, October 31, 1904.

My Lord,

I have the honour to inclose copy of the note which I addressed to M. Delcassé, making the inquiries desired by your Lordship with reference to the presence of any French torpedo-boats or destroyers near the Dogger Bank on the night of the 21st — 22nd October, or the acquisition or equipment of such vessels on the French coast by Japanese Agents. I inclose also a copy of M. Delcassé's reply, received this morning.

The reply to the first of your Lordship's inquiries no doubt refers to Cherbourg and Dunkirk only, because these are the nearest ports to the Dogger Bank to which torpedo-boats or destroyers are attached.

I have, &c.

(Signed) *Edmund Monson.*

Inclosure 1.

Sir E. Monson to M. Delcassé.

Paris, le 28 octobre, 1904.

M. le Ministre,

Je suis chargé par le Premier Secrétaire d'Etat de Sa Majesté pour les Affaires Etrangères de prier avec urgence votre Excellence de vouloir bien me faire savoir:

1. Si, la nuit du 21 — 22 octobre, il s'est trouvé un ou plusieurs torpilleurs ou contre-torpilleurs Français dans le voisinage du Dogger Bank;

2. Si le Gouvernement Français a reçu quelque renseignement tendant à constater que des Agents Japonais aient acquis et appareillé de tels torpilleurs ou contre-torpilleurs à un point quelconque de la côte Française.

Je serais très reconnaissant si votre Excellence pouvait me donner sans délai une réponse à ces questions, dont elle ne manquera pas d'apprécier l'importance.

Veuillez, &c.

(Signé) *Edmund Monson.*

(Translation.)

Paris, October 28, 1904.

Sir,

I am instructed by His Majesty's Principal Secretary of State for Foreign Affairs to urgently beg your Excellency to kindly inform me;

1. Whether on the night of the 21st — 22nd October there were any French torpedo-boats or destroyers in the neighbourhood of the Dogger Bank;

2. Whether the French Government have received any information tending to prove that Japanese Agents have acquired and equipped any such torpedo-boats or destroyers at any point on the French coast.

I should be much obliged if your Excellency could give me, without delay, a reply to these questions, of which you will not fail to appreciate the importance.

Accept, &c.

(Signed) *Edmund Monson.*

Inclosure 2.

M. Delcassé to Sir E. Monson.

Paris, le 29 octobre, 1904.

M. l'Ambassadeur,

Mon collègue de la Marine, à qui j'avais fait part de la demande de renseignements dont votre Excellence a bien voulu m'entretenir par sa lettre du 28 de ce mois, vient de me communiquer les réponses qu'il a reçues à ce sujet. Il en résulte, d'une part, qu'aucun navire de Cherbourg ne s'est trouvé dans le voisinage du Dogger Bank pendant la nuit du 21 — 22 octobre, et, d'autre part, qu'aucun torpilleur ou contre-torpilleur de
a Défense Mobile de Dunkerque n'était sorti à cette date.
1 Relativement à la seconde question formulée dans la lettre précitée de votre Excellence, le Gouvernement Français ne peut faire état d'aucun renseignement concernant la côte Française.

Agréez, &c.

(Signé) *Delcassé.*

Viscount Hayashi to the Marquess of Lansdowne. — (Received November 1.)

Japanese Legation, London, November 1, 1904.

M. le Marquis,

With regard to your Lordship's inquiry as to whether there were any Japanese war-vessels present in the vicinity of the Dogger Bank on the night of Friday, the 21st, or early morning of Saturday, the 22nd October, I beg to state that there was no such vessel present in the North Sea at that time.

In this connection, you may perhaps be interested to read the inclosed copy of the letter which I sent to His Majesty's Coroner for Hull in reply to his inquiry.

I have, &c.
(Signed) *Tadasu Hayashi.*

Inclosure.

Viscount Hayashi to Mr. Thorney.

4, Grosvenor Gardens, London, October 31, 1904.

Sir,

Acknowledging the receipt of your note of the 29th instant, asking me whether any war-vessels of any description belonging to, or controlled by, His Majesty the Emperor of Japan were in the vicinity of the Hull Gamecock trawling fleet, 200 miles east by north of the Spurn light-ship, on the night of Friday, the 21st, or early morning of Saturday, the 22nd instant, I beg to state that there were no Japanese war-vessels present at the time and in the locality mentioned in your note.

In order, however, to give an official character to this statement, I beg to request you to cause the inquiry to be made through the British Government, as is usual with any important question bearing official character.

I am, &c.
(Signed) *Tadasu Hayashi.*

Sir C. Hardinge to the Marquess of Lansdowne. — (Received November 1.)

(Telegraphic.) St. Petersburgh, November 1, 1904.

Attack on fishing-boats.

I pointed out to Count Lamsdorff the great danger which would arise from the repetition of such incidents, and earnestly impressed upon his Excellency the necessity of avoiding their recurrence.

His Excellency replied that he felt confident that there would be no such recurrence, and asked me to assure your Lordship that every step had been taken to prevent it, and that he had sent instructions to take every precaution to avoid such a possibility even before Admiral Rostjestvensky's arrival at Vigo.

Sir C. Hardinge to the Marquess of Lansdowne. —
(Received November 1.)

(Telegraphic.) St. Petersburgh, November 1, 1904.

I have been informed by Count Lamsdorff that Admiral Kaznakoff has been appointed Russian Representative on the Court of Inquiry. He is Aide-de-camp-General of the Emperor.

The Emperor has approved the choice of the four officers who have been selected for examination by the Court.

Sir C. Hardinge to the Marquess of Lansdowne. —
(Received November 1.)

(Telegraphic.) St. Petersburgh, November 1, 1904.

Attack on fishing-vessels.

My telegrams of to-day must have crossed your Lordship's telegram of yesterday, and they deal with demands Nos. 1 and 2 in the latter.

Among the officers detained, the only one whose name is known to me is Captain Klado.

From what Count Lamsdorff told me I gathered that orders had been sent to the squadron to leave Vigo to-day.

Foreign Office to Board of Trade.

Foreign Office, November, 1, 1904.

Sir,

I am directed by the Marquess of Lansdowne to inform you that the Russian Ambassador stated to-day, that the Russian Government do not consider it essential, that their Embassy should be represented at the inquiryto be held at Hull by the Board of Trade.

I am, &c.
(Signed) *Eldon Gorst.*

Sir C. Hardinge to the Marquess of Lansdowne. —
(Received November 2.)

(Telegraphic.) St. Petersburgh, November 2, 1904.

North Sea incident.

I have given Count Lamsdorff a French translation of the six Articles of the proposed Agreement and of the last paragraph of your Lordship's telegram of the 31st ultimo.

The text did not tally exactly with that telegraphed by Count Benckendorff, but your Lordship's is accepted as the correct version.

Count Lamsdorff will submit it to the Emperor and Minister of Marine to-day.

The Marquess of Lansdowne to Sir C. Hardinge.

(Telegraphic.) Foreign Office, November 2, 1904.

Russian Ambassador made following announcement to me yesterday:

„Before the Russian Admiral left Vigo, special instructions were given to him that the Russian fleet, during its voyage to the Far East, is to observe the utmost caution in order to avoid occasioning injury or inconvenience to any neutral shipping which they may encounter.

The following Russian officers have been left behind at Vigo: Captain de Fregate Klado, Lieutenant Ellis, Lieutenant Shramtchenko, and Ensign Ott, these being the only officers whose presence the Russian Government consider material for the purpose of the inquiry."

The Marquess of Lansdowne to Sir C. Hardinge.

(Telegraphic.) Foreign Office, November 2, 1904.

The question of terms of reference is most urgent.

Count Lamsdorff, in his statement to you, and Count Benckendorff, in his statements to me, have employed phrases which indicate the desire of the Russian Government to exclude altogether from the consideration of the Commission the question of „responsibility". In our view this is wholly inadmissible.

We shall be satisfied if we receive the official assurance of the Russian Government that the officers detained comprise those who were specially implicated in the transaction, and upon whom the blame, if blame there be, must fall. This we have been promised, and we cannot accept less, but you can explain to him that we have no desire to press for any form of words which prejudges the culpability or innocence of those concerned, to whatever nationality they should happen to belong. It will be for the Commission to determine the question of responsibility and justification or blame, as the case may be.

The Marquess of Lansdowne to Sir C. Hardinge.

Foreign Office, November 2, 1904.

Sir,

The Russian Ambassador called upon me again this afternoon, and I read to him the substance of the telegram which I dispatched to you today. His Excellency seemed much pleased with the passage to the effect that we should be satisfied if we received the official assurance of the Russian Government that the officers detained comprised those who were specially implicated in the transaction, and upon whom the blame, if blame there were, must fall; but he endeavoured to convince me that the concluding paragraph, in which it was stated that it would be for the Commission to determine the question of responsibility and justification or blam, as the case might be, was open to objection, upon the ground that it assumed the culpability of the Russian officers. I pointed out that no

such assumption was made, and that the wording of the telegram was strictly fair as between the two Parties to the dispute. His Excellency said that, as I had telegraphed to you, he thought it better that he should not discuss the matter further with me. I am, &c.

(Signed) *Lansdowne.*

Sir C. Hardinge to the Marquess of Lansdowne. — (Received November 3.)

(Telegraphic.) St. Petersburgh, November 3, 1904.

Attack on British fishing-boats.

With reference to your Lordship's telegram of yesterday, Count Lamsdorff read to me a telegram from Count Benckendorff recording his conversation with your Lordship. He entirely approves Count Benckendorff's reply.

In his Excellency's opinion it is the work of the Commission of Inquiry alone to determine the responsibility for the incident, and he could not admit the responsibility or guilt of the officers detached until proved by that body, and therefore could give no assurance in the sense desired by your Lordship, but, since those officers who were actually implicated would be in the best position to give evidence, the selection of certain individuals as witnesses did not exclude the possibility of their having been responsible in the matter.

In the same way there might be fishermen implicated either voluntarily or involuntarily, but though his Excellency presumed that those who might possibly be proved guilty would come before the Commission among the witnesses, he made no demands that any guilt or responsibility should be attached to them now.

I was to convey to your Lordship the assurance that good-will on his part was not lacking, and he was most anxious for a satisfactory settlement of the matter, but it was impossible to speak of the attachment of responsibility to parties on either side, now that the Commission had once been appointed, until it had given its decision.

The consequences of responsibility would then indubitably have to be suffered by Russian officers, in accordance with Russian law, if it could be shown to fall upon them, and in the event, which at present he equally declined to admit, of the complicity of the fishermen in the attack on the fleet being proved, he had absolute conviction that similar action would be taken in their case by His Majesty's Government.

The Marquess of Lansdowne to Sir C. Hardinge.

(Telegraphic.) Foreign Office, November 4, 1904.

Your telegram of the 3rd instant.

Except for what depends on verbal misunderstandings, there seems now to be very little, if any, difference of opinion between the two Governments.

We are agreed:

1. That until the inquiry is concluded no blame should be attached to any one, still less that any punishment should be inflicted.

2. That the conduct of all persons concerned, and not merely that of Russian officers, should be made the subject of investigation.

3. That punishment should be inflicted according to law if, and when, the blame is proved.

4. We gather that the officers retained are not merely those qualified to act as witnesses, but the persons implicated; and Count Lamsdorff's phrase quoted in your telegram („Since those officers who were actually implicated," &c.) shows that he agrees with us on this point.

An apparent misunderstanding of our use of the word „responsibility" seems to be causing the difficulty between us.

The International Tribunal alone can determine whether responsibility is equivalent to guilt or is in itself deserving of punishment.

We do not regard this as necessarily the case, but in our view the persons who are responsible are those on whom blame would fall, if blame there was.

Sir C. Hardinge to the Marquess of Lansdowne. — (Received November 4.)

(Telegraphic.) St. Petersburgh, November 4, 1904.

Count Lamsdorff has just sent me a note announcing the acceptance in their entirety of the six Articles of the draft Convention communicated to him by Count Benckendorff and myself.

Count Benckendorff to the Marquess of Lansdowne. — (Received November 5.)

Londres, le 5 novembre (23 octobre), 1904.

Cher Lord Lansdowne,

Un télégramme du Comte Lamsdorff, reçu ce matin, me charge de porter à la connaissance du Gouvernement de Sa Majesté Britannique que le Gouvernement Impérial adhère au projet proposé par le Cabinet de Londres pour l'organisation de la Commission Internationale d'Enquête sur l'événement de la Mer du Nord, qui se réunira à Paris.

Veuillez, &c.

(Signé) *Benckendorff.*

Sir C. Hardinge to the Marquess of Lansdowne. — (Received November 5.

(Telegraphic.) St. Petersburgh, November 5, 1904.

Count Lamsdorff carefully studied your Lordship's telegram of yesterday, which I read to him, and authorized me to inform your Lordship

that the whole of it was acceptable to the Russian Government except the last paragraph.

I took the opportunity of telling his Excellency that English public opinion attached great significance to the detachment of so small a number of officers from the fleet, and to its subsequent departure from Vigo. He assured me that punishment would most certainly follow any eventual discovery that responsibility and blame rested either with these four officers or any others.

The Marquess of Lansdowne to Sir C. Hardinge.

(Telegraphic.) Foreign Office, November 5, 1904, 4 P.M.

Your telegram of 3rd November.

Express our satisfaction at Agreement arrived at as to terms of reference.

We suggest addition of the three following Articles:

1. Each of the High Contracting Parties shall appoint a Legal Assessor, who shall sit with the Commissioners and assist them in their deliberations.

The Legal Assessor shall have no vote in determining the findings of the Commission.

2. Each of the High Contracting Parties shall be represented by an Agent, and shall pay its own expenses, together with a moiety of the expenses of the Commission.

3. All questions considered by the Commission in the course of their investigations or dealt with in their ultimate findings and recommendations shall be determined by a majority of all the Commissioners.

Sir F. Lascelles to the Marquess of Lansdowne. — (Received November 7.)

Berlin, November 1, 1904.

My Lord,

I have the honour to forward to your Lordship herewith translation of the note in which Baron von Richthofen incloses the replies of the Admiralty to the two questions put to them by the Naval Attaché on the 28th ultimo.

Your Lordship will perceive that subsequent inquiries have confirmed their original statement that no German torpedo-boats or destroyers were in the neighbourhood of the Dogger Bank on the night of the Russian attack, and further that they have no information leading them to suppose that Japanese Agents made use of any point of the German coast for the acquisition or equipment of such boats.

I have, &c.

(Signed) *Frank C. Lascelles.*

Inclosure 1.

Note communicated by Baron Richthofen to Sir F. Lascelles.

(Translation.) Berlin, October 31, 1904.

The Undersigned has the honour to forward to His Britannic Majesty's Ambassador, Sir Frank Lascelles, the inclosure, replies to the two questions which the Naval Attaché of the British Embassy on the 28th ultimo put to the Secretary of State of the Imperial Admiralty.

The Undersigned, &c. (Signed) *Richthofen.*

Inclosure 2.

Replies of German Admiralty to Questions addressed to them by Captain Allenby.

Question.	Answer.
Whether any torpedo-boats or destroyers belonging to the German navy were in the North Sea in the vicinity of the Dogger Bank on the night of the 21st and morning of 22nd October?	According to telegraphic information from the North Sea Naval Station there were no German torpedo-boats in the neighbourhood of the Dogger Bank on the night in question.
2. If they have any information of the acquisition and equipment of such torpedo-boats or destroyers by Japanese Agents at any point on the coast of Germany?	2. The Imperial Navy has no knowledge that would lead it to suspect any such action on the part of Japanese Agents.

The Marquess of Lansdowne to Sir C. Hardinge.

(Telegraphic.) Foreign Office, November 7, 1904.

Your telegram of the 5th November.

It is most satisfactory to us to know that we did not misinterpret Count Lamsdorff's meaning.

It is obvious that, pending the result of the inquiry, it is not for us in any way to challenge decision of Russian Government as to rank and number of officers selected.

We note with satisfaction Count Lamsdorff's important intimation that, if Commission should eventually find that responsibility and blame rest with the four officers detained, or any others, punishment will certainly follow. Responsibility for present selection must obviously rest with Russian Government.

Sir C. Hardinge to the Marquess of Lansdowne. — (Received November 8.)

St. Petersburgh November 5, 1904.

My Lord,

I have the honour to transmit herewith, with reference to my telegram of yesterday, a copy of a letter received from Count Lamsdorff notifying

the acceptance by the Russian Government of the six Articles of the draft Convention for the International Commission of Inquiry into the North Sea incident.

I have, &c.
(Signed) *Charles Hardinge.*

Inclosure.

Count Lamsdorff to Sir C. Hardinge.

Saint-Pétersbourg, le 22 octobre (4 novembre) 2, 1904.

M. l'Ambassadeur,

D'autorisation suprême, je m'empresse d'informer votre Excellence que le Gouvernement Impérial adhère au projet de Convention pour la Commission Internationale d'Enquête sur ce qui s'est passé dans la Mer du Nord. Je viens de télégraphier au Comte de Benckendorff que ce projet, qui m'a été communiqué par votre Excellence et par lui, est accepté intégralement.

Je vous prie, &c.
(Signé) *Lamsdorff.*

Sir C. Hardinge to the Marquess of Lansdowne. — (Received November 8.)

(Telegraphic.) P. St. Petersburgh, November 8, 1904.

With reference to your Lordship's telegram of the 5th instant, I called on Count Lamsdorff, at his Excellency's request, on his return from his audience with the Emperor this afternoon, and learned that His Majesty accepts all three Articles, and is willing to take Article 2 on trust since his Excellency was unable to explain to him the duties and attributes of the Agents whom it is proposed to appoint. His Excellency requested me to inquire of your Lordship as to this point, and to suggest that the Agents should be selected from the British and Russian Embassies in Paris, unless their duties are of a very special character.

The Marquess of Lansdowne to Sir C. Hardinge.

Foreign Office, November 8, 1904.

Sir,

I have received your despatch of the 28th ultimo, reporting your conversation with Count Lamsdorff on the subject of Admiral Rostjestvensky's two telegrams from Vigo as to an alleged attack on his fleet by two Japanese torpedo-boats in the North Sea.

The language which you held to his Excellency is approved by His Majesty's Government.

I am, &c.
(Signed) *Lansdowne.*

The Marquess of Lansdowne to Sir C. Hardinge.

(Telegraphic.) Foreign Office, November 9, 1904.

The prompt manner in which the Russian Government have accepted the three additional Articles, as reported in your telegram of the 8th November, has afforded great satisfaction to His Majesty's Government, and you should so inform Count Lamsdorff.

As regards the Agents, they will not perform duties of any very special character. They will merely act as intermediaries between the Commission and the Governments concerned, and we should be quite content for them to be selected from among the present members of the Russian and British Embassies in Paris.

Sir C. Hardinge to the Marquess of Lansdowne. — (Received November 11.)

(Telegraphic.) St. Petersburgh, November 10, 1904.

Your Lordship's despatch of the 31st October.

I communicated to Count Lamsdorff on the 7th instant a copy of the draft Convention, and His Excellency informed me this evening that Count Benckendorff had asked for full powers to sign.

Count Lamsdorff said, however, that the form of the Convention was not, he thought, that in which such instruments were usually drawn up, and he had prepared a text embodying the nine Articles which he would communicate to me to-morrow.

On my expressing the hope that no new matter for discussion would be introduced into his text, he assured me that the nine Articles agreed upon would be integrally contained in it. Full powers might be conferred by telegram if his text was approved.

The Marquess of Lansdowne to Sir C. Hardinge.

(Telegraphic.) Foreign Office, November 11, 1904, 3 P.M.

With regard to the Sovereign who shall be invited to choose a fifth Commissioner in the event of the other four being unable to agree, His Majesty's Government propose that the Emperor of Austria should, if necessary, be asked to name an Austrian Admiral.

Admiralty to Foreign Office. — (Received November 12.)

Admiralty, November 11, 1904.

Sir,

I am commanded by my Lords Commissioners of the Admiralty to acquaint you, for the information of the Marquess of Lansdowne, that

His Majesty the King has been pleased to appoint Vice-Admiral Sir Lewis A. Beaumont, K.C.B., K.C.M.G., as British member of the International Commission on the North Sea incident.

I am, &c.
(Signed) *C. I. Thomas.*

Sir C. Hardinge to the Marquess of Lansdowne. — (Received November 13.)

(Telegraphic.) St. Petersburgh, November 12, 1904.

Following note received this evening from Count Lamsdorff:

„In reply to your note of 6th November last, I have the honour to transmit to your Excellency French translation of draft of Agreement with regard to North Sea incident drawn up in accordance with English text of six Articles of this Agreement inclosed in said note, as well as with three additional clauses mentioned in your note. Contents of first of these clauses have been included in text of Article I of Agreement, while clauses II and III have gone to form Articles VII and VIII of this project. I consider it my duty to add to above that, besides corrections of editorial character, necessitated by translation into French of said Agreement, Ministry of Foreign Affairs have worded Article II of Agreement in somewhat altered form as compared with English text, in assurance that present version, expressing as it does selfsame idea, will not give rise to any objections on part of His Majesty's Government. As regards form of Agreement as drafted in annexed inclosure, it would seem desirable to conclude it in form of Declaration, that being the least complicated form, which might be signed in St. Petersburgh or London, on authority of simple permission by both Governments."

Following is „projet de Déclaration":

„Le Gouvernement Impérial de Russie et le Gouvernement de Sa Majesté Britannique, s'étant mis d'accord pour confier à une Commission Internationale d'Enquête, réunie conformément aux Articles IX et XIV de la Convention de La Haye, le soin d'éclaircir, par un examen impartial et consciencieux, les questions de fait se rapportant à l'incident qui s'est produit durant la nuit du 8—9 octobre, au cours duquel une partie de la flottille de pêcheurs Britanniques a éprouvé des dommages à la suite du tir des pièces de canon de la flotte Russe, les Soussignés, dûment autorisés à cet effet, sont convenus des dispositions suivantes:

Article 1er. La Commission Internationale d'Enquête sera composée de cinq membres Commissaires dont deux seront des officiers de haut rang des Marines Impériale Russe et Britannique respectivement. Les Gouvernements de France et des Etats-Unis d'Amérique seront priés de choisir chacun un de leurs officiers de Marine de haut rang comme membre de la Commission. Le cinquième membre sera élu d'accord par les quatre membres susmentionnés. Dans le cas où il ne se produirait pas d'entente entre les quatre Commissaires pour le choix du cinquième membre de la Commission, celui-ci sera choisi par Sa Majesté le . . . . . Chacune

des deux Hautes Parties Contractantes nommera également un jurisconsulte assesseur avec voix consultative et un Agent chargés à titre officiel de prendre part aux travaux de la Commission.

Art. 2. La Commission devra examiner toutes les circonstances ayant trait à l'incident de la Mer du Nord, notamment, élucider les faits y relatifs, et se prononcer sur la question de responsabilité selon les résultats de l'enquête.

Art. 3. La Commission fixera les détails de la procédure qui sera suivie par elle pour l'accomplissement de la tâche qui lui est dévolue.

Art. 4. Les deux Hautes Parties Contractantes s'engagent à fournir à la Commission Internationale d'Enquête dans la plus large mesure qu'elles jugeront possible tous les moyens et les facilités nécessaires pour la connaissance complète et l'appréciation exacte des faits en question.

Art. 5. La Commission se réunira à Paris aussitôt que faire se pourra après la signature de cet Arrangement.

Art. 6. La Commission présentera aux deux Parties Contractantes son Rapport signé par tous les membres de la Commission.

Art. 7. La Commission prendra toutes ses décisions à la majorité des voix des cinq Commissaires.

Art. 8. Le Gouvernement Impérial de Russie garde à sa charge par réciprocité les frais de l'enquête faite par lui préalablement à la réunion de la Commission.

Quant aux dépenses qui incomberont à la Commission Internationale d'Enquête à partir du moment de sa réunion pour l'installation de ses services et les investigations nécessaires, elles seront faites en commun par les deux Gouvernements."

Sir C. Hardinge to the Marquess of Lansdowne. — (Received November 13.)

(Telegraphic.) St. Petersburgh, November 12, 1904.

My immediately preceding telegram.

I addressed a note to Count Lamsdorff this evening immediately on receipt of his Excellency's note to me of to-day, and reminded him that he had informed me, in his note of the 4th instant, that the Russian Government, by the Emperor's orders, accepted integrally and adhered to the draft Convention communicated by myself and Count Benckendorff. I also reminded him of his statement on the 10th instant (reported by me in my telegram of the same day) that the nine Articles agreed on would be embodied integrally in his revised draft.

Pending your Lordship's instructions, I purposely abstained from discussing the amended form of Article II or the changes in the Preamble.

Sir C. Hardinge to the Marquess of Lansdowne. — (Received November 14.)

(Extract.) St. Petersburgh, November 8, 1904.

On the 1st instant I had the honour to receive your Lordship's telegram of the preceding day, containing the substance of six Articles forming the basis of the proposed Agreement for the terms of reference to the International Commission of Inquiry, to be established with a view to inquiring and reporting upon the circumstances attending the recent incident in the North Sea.

I called on Count Lamsdorff the following day and communicated to his Excellency a French translation of the six Articles of the proposed Agreement, together with the last paragraph of your Lordship's telegram. After comparing it with the text of the proposal submitted to Count Lamsdorff by Count Benckendorff, a discrepancy was apparent in the first Article, Count Benckendorff's text having provided that the fifth Commissioner should be chosen by the British and Russian Representatives, and not by the four Commissioners. Count Lamsdorff accepted, however, my text as the correct one. His Excellency said that he would send a copy to the Emperor at once and a further copy to the Ministry of Marine.

When I saw Count Lamsdorff on the following day, his Excellency informed me that the Emperor had so far approved that he had returned to him the copy of the six Articles, and was now awaiting the report of the Ministry of Marine.

Towards midnight on the 4th instant I received a communication from Count Lamsdorff, of which I have already had the honour to forward to your Lordship a copy in my despatch of the 5th instant, informing me that, by the Emperor's orders, the six Articles of the draft Convention had been accepted in their entirety.

Your Lordship's telegram of the 5th instant reached me the following day, and I at once addressed a note to Count Lamsdorff, of which a copy is herewith inclosed, expressing to his Excellency the satisfaction of His Majesty's Government at the agreement arrived at as to the terms of the reference to the International Commission and submitting at the same time the text of three additional Articles which your Lordship had suggested.

To-day I received a message from Count Lamsdorff asking me to call on his Excellency on his return this afternoon from Tsarskoe Selo, where he had been for his weekly audience of the Emperor. On being received at the Ministry for Foreign Affairs, Count Lamsdorff informed me that he had submitted my note of the 6th instant this morning to the Emperor, and His Majesty had stated his readiness to accept all three Articles, but as he had been unable to explain to the Emperor what were the precise duties and functions of the Agents to be appointed in accordance with Article II, His Majesty had accepted this Article on trust. As I was equally unable to describe the duties of an Agent under such circumstances,

Count Lamsdorff asked me to make inquiries of your Lordship on this point. He suggested that unless the duties of the Agents were of some special and technical kind, they might with advantage be performed by Agents selected from the staffs of the British and Russian Embassies in Paris.

Inclosure.

Sir C. Hardinge to Count Lamsdorff.

St. Petersburgh, November 6, 1904.

M. le Comte,

I had the honour to communicate to the Marquess of Lansdowne the contents of your Excellency's note to me of the 14th instant, informing me, by supreme order, that the Imperial Government adhere to the draft Convention for the International Commission of Inquiry into the circumstances of the North Sea incident, which I was directed to communicate to you.

I have now been instructed by His Majesty's Principal Secretary of State for Foreign Affairs to express to your Excellency the satisfaction of His Majesty's Government at the agreement arrived at as to the terms of reference to the International Commission of Inquiry to be held at Paris.

I have the honour to inclose herewith the text of the six Articles in question, together with a preamble which it has been proposed to attach. I understand that a similar text has already been communicated to Count Benckendorff.

I am at the same time to suggest the addition of the three following Articles:

Article I.

Each High Contracting Party shall appoint a Legal Assessor, who ought to sit with the Commissioners and assist them in their deliberations.

Legal Assessors shall have no vote in determining the findings of the Commission.

Article II.

Each High Contracting Party shall be represented by an Agent, and shall pay its own expenses, together with a moiety of the expenses of the Commission.

Article III.

All questions considered by the Commission in the course of their investigations, or dealt with in their ultimate findings and recommendations, shall be determined by a majority of all the Commissioners.

I shall be grateful if your Excellency will be so good as to inform me at an early date whether the three additional Articles meet with the approval of the Imperial Government.

I avail, &c.

The Marquess of Lansdowne to Sir C. Hardinge.

(Telegraphic.) Foreign Office, November 14, 1904

Your telegram of 12th November.

We greatly regret that Count Lamsdorff should have thought it necessary to recommence a discussion which we regard as definitively closed by his statement made to you on 4th instant with the authority of the Emperor.

We cannot now consent to a controversy as to the terms of the Agreement, and we desire to adhere to the text as sent to you in my despatch of 31st October.

Sir C. Hardinge to the Marquess of Lansdowne. — (Received November 14, 9·30 P.M.)

(Telegraphic.) St. Petersburgh, November 14, 1904, 8·40 P.M.

My telegram of the 12th instant.

I have received note from Count Lamsdorff to the effect that, after consultation with the best Russian jurists, M. de Martens at their head, he had come to the conclusion that original text of Article II was contrary to sense of stipulation of Hague Convention relating to appointment of a Commission of Inquiry: that his sole object in proposing to me a more exact text was to maintain integrally the idea of the Article, and express it in a manner which appeared to him more correct.

The Marquess of Lansdowne to Sir C. Hardinge.

(Telegraphic.) Foreign Office, November 15, 1904.

Your telegram of yesterday.

Objection that our Article II is contrary to sense of Hague Convention might also be urged against Russian draft, for it cannot possibly be contended that the question of responsibility is a question of fact but that the question of blame is not.

You should, however, remind Count Lamsdorff that it was clearly explained to him that what we contemplated was a Convention „analogous" to, and not identical with, those recommended by Hague Convention. See my telegram of 31st October.

The Marquess of Lansdowne to Sir C. Hardinge.

(Telegraphic.) Foreign Office, November 15, 1904.

My telegram of to-day.

It cannot be too clearly understood that, in our opinion, question of responsibility and question of blame are both questions of fact. We used the word „analogous" in the preamble for greater security, in order to meet the kind of objection which Count Lamsdorff now apparently desires to raise.

Sir C. Hardinge to the Marquess of Lansdowne. — (Received November 17.)

(Extract.) St. Petersburgh, November 13, 1904.

When I called on Count Lamsdorff on the evening of the 10th instant, his Excellency informed me that he had received a telegram from Count Benckendorff to the effect that your Lordship had inquired of him whether he had full powers to sign the Convention which had been agreed upon for the reference to an International Commission of Inquiry of the circumstances connected with the recent incident in the North Sea.

Count Lamsdorff suggested that it would not be necessary to send formal full powers, but that telegraphic instructions giving authority to sign should be considered sufficient. His Excellency added that the text of the Articles of the proposed Convention, which I had communicated to him, did not appear to have the usual wording which is common to such instruments, and that he had consequently given instructions for the preparation of a text in a more developed form embodying the nine Articles agreed upon, which he hoped to be able to transmit to me the following day.

I at once replied that I trusted that the text which he proposed to submit to me would admit no fresh contentious matter, and his Excellency assured me that it would contain integrally the nine Articles agreed upon.

Shortly after 7 o'clock yesterday evening I received a note from Count Lamsdorff, of which I have the honour to inclose a translation herewith, transmitting the French text of a proposed Convention. These I had the honour to telegraph to your Lordship last night in extenso.

Pending your Lordship's instructions, I addressed a semi-official note to Count Lamsdorff, of which a copy is herewith inclosed, in which I reminded his Excellency that he had informed me in a note on the 4th instant, which I had had te honour to communicate to your Lordship, that by supreme authorization the Russian Government had given their adhesion to the draft Convention communicated by Count Benckendorff and me, and that the draft had been accepted integrally. I also reminded his Excellency of the assurance given to me on the 10th instant that the draft Convention consisting of the nine Articles proposed by His Majesty's Government would be integrally incorporated in the more developed text which he said that he was preparing, and would communicate to me on the following day.

Inclosure 1.

Count Lamsdorff to Sir C. Hardinge.

(Translation.) Ministry of Foreign Affairs, First Department, November 12, 1904.

M. l'Ambassadeur,

In reply to your note of the 6th November last, I have the honour to transmit to your Excellency a French translation of the draft of an Agreement with regard to the North Sea incident, drawn up in accordance

with the English text of the six Articles of this Agreement (inclosed in the said note), as well as with the three additional clauses mentioned in your note. The contents of the first of these clauses have been included in the text of Article I of the Agreement, while clauses 2 and 3 have gone to form Articles VII and VIII of this project.

I consider it my duty to add to the above that, besides corrections of an editorial character, necessitated by translation into French of the said Agreement, the Ministry of Foreign Affairs has worded Article II of the Agreement in a somewhat altered form as compared with the English text, in the assurance that the present version, expressing as it does the self-same idea, will not give rise to any objection on the part of the British Government.

As regards the form of the Agreement (as drafted in the annexed inclosure), it would seem desirable to conclude it in the form of a Declaration (that being the least complicated form), which might be signed in St. Petersburgh or London on the authority of a simple permission by both Governments.

Accept &c.

(Signed) Count *Lamsdorff.*

Inclosure 2.

Projet de Déclaration.

(Traduction.)

Le Gouvernement Impérial de Russie et le Gouvernement de Sa Majesté Britannique s'étant mis d'accord pour confier à une Commission Internationale d'Enquête, réunie conformément aux Articles IX—XIV de la Convention de La Haye du 17 (29) juillet, 1899, pour le réglement pacifique des conflits internationaux, le soin d'éclaircir par un examen impartial et consciencieux les questions de fait se rapportant à l'incident qui s'est produit durant la nuit du 8—9 (21—22) octobre, 1904, dans la Mer du Nord (au cours duquel une partie de la flottille de pêcheurs Britanniques a éprouvé des dommages à la suite du tir des pièces de canon de la flotte Russe), les Soussignés, dûment autorisés à cet effet, sont convenus des dispositions suivantes:

Article I.

La Commission Internationale d'Enquête sera composée de cinq membres (Commissaires), dont deux seront des officiers de haut rang des Marines Impériale Russe et Britannique respectivement. Les Gouvernements de France et des Etats-Unis d'Amérique seront priés de choisir, chacun, un de leurs officiers de marine de haut rang comme membre de la Commission. Le cinquième membre sera élu d'accord par les quatre membres susmentionnés.

Dans le cas où il ne se produirait pas d'entente entre les quatre Commissaires pour le choix du cinquième membre de la Commission, celui-ci sera choisi par Sa Majesté le . . . . . .

Chacune des deux Hautes Parties Contractantes nommera également un Jurisconsulte-Assesseur avec voix consultative, et un Agent, chargé à titre officiel de prendre part aux travaux de la Commission.

Article II.

La Commission devra examiner toutes les circonstances ayant trait à l'incident de la Mer du Nord, notamment, élucider les faits y relatifs et se prononcer sur la question de responsabilité, selon les résultats de l'enquête.

Article III.

La Commission fixera les détails de la procédure qui sera suivie par elle pour l'accomplissement de la tâche qui lui est dévolue.

Article IV.

Les deux Hautes Parties Contractantes s'engagent à fournir à la Commission Internationale d'Enquête, dans la plus large mesure qu'elles jugeront possible, tous les moyens et les facilités nécessaires pour la connaissance complète et l'appréciation exacte des faits en question.

Article V.

La Commission se réunira à Paris aussitôt que faire se pourra après la signature de cet Arrangement.

Article VI.

La Commission présentera aux deux Hautes Parties Contractantes son rapport signé par tous les membres de la Commission.

Article VII.

La Commission prendra toutes ses décisions à la majorité des voix des cinq Commissaires.

Article VIII.

Le Gouvernement Impérial de Russie garde à sa charge, par réciprocité, les frais de l'enquète faite par lui préalablement à la réunion de la Commission. Quant aux dépenses qui incomberont à la Commission Internationale d'Enquète à partir du moment de sa réunion pour l'installation de ses services et les investigations nécessaires, elles seront faites en commun par les deux Gouvernements.

En foi de quoi les Soussignés ont signé la présente Déclaration, et y ont apposé le sceau leurs armes.

Fait en double à Saint-Pétersbourg le novembre, 1904.

Inclosure 3.

Sir C. Hardinge to Count Lamsdorff.

Saint-Pétersbourg, le 30 octobre (12 novembre), 1904.

M. le Comte,

J'ai l'honneur d'accuser réception de la note que votre Excellence a bien voulu m'adresser en date d'aujourd'hui, dans laquelle elle m'a trans-

mis un projet de Déclaration pour l'institution d'une Commission Internationale sur ce qui s'est passé dans la Mer du Nord.

Votre Excellence a bien voulu attirer mon attention au fait que, en dehors des amendements de rédaction nécessités par la traduction en Français du dit Accord, la nouvelle forme de l'Article II, quoique modifiée par comparaison avec le texte Anglais, exprime la même idée.

En attendant les instructions de mon Gouvernement, et sans discuter ce point, je me permets d'informer votre Excellence que le 22 octobre (4 novembre) j'ai communiqué au Marquis de Lansdowne le contenu de la note de la même date par laquelle elle m'a informé que, d'autorisation suprême, le Gouvernement Impérial adhère au projet de Convention communiqué par le Comte Benckendorff et moi, et qu'il a été accepté intégralement.

Après mon entretien avec votre Excellence le 28 octobre (10 novembre) j'ai aussi télégraphié à Lord Lansdowne que votre Excellence était en train de préparer un texte développé d'un projet de Convention, et qu'elle m'a donné l'assurance que le texte rédigé par le Gouvernement de Sa Majesté Britannique y serait incorporé intégralement.

Je saisis, &c.

(Signé) *Charles Hardinge.*

Sir C. Hardinge to the Marquess of Lansdowne. — (Received November 17, 7·30 A.M.)

(Telegraphic.) St. Petersburgh, November 16, 1904, 8·35 P.M.

I have had a conversation with Count Lamsdorff, during which I fully emphasized the views of His Majesty's Government, and I left with him a summary of the contents of your telegrams of the 14th and 15th instant.

Sir C. Hardinge to the Marquess of Lansdowne. — (Received November 17.)

(Telegraphic.) St. Petersburgh, November 17, 1904.

I have received a letter from Count Lamsdorff this morning announcing that the Emperor agrees to the proposal to invite the Emperor of Austria to select an Admiral as fifth Commissioner in case the other four Commissioners are unable to come to an agreement.

Sir C. Hardinge to the Marquess of Lansdowne. — (Received November 18.)

(Telegraphic.) St. Petersburgh, November 18, 1904.

Note received this evening from Count Lamsdorff, stating that the summary of your Lordship's telegrams, which I had handed him, had

greatly contributed to remove misunderstanding which existed between the two Governments.

Misunderstanding was due to fact that Russian Government were persuaded from outset that stipulations of Hague Convention would be sole basis of our Agreement in present case, while British Government wished to give Commission wider powers. Summary established precisely exact sense of Article II.

He communicated a new text of this Article, which, while being in conformity with original English text, contained developments indicated in summary.

As to Preamble, Ministry had not hesitated to modify its text in adding facts mentioned in English draft.

Text of Russian draft is the same, with following exceptions:

In Preamble, after words „Mer du Nord," insert „au cours duquel le tir des pièces de canons de la flotte Russe occasionna la perte d'un bateau et la mort de deux personnes appartenant à une flottille de pêcheurs Britanniques ainsi que des dommages à d'autres bateaux de la dite flottille et des blessures aux équipages de quelques-uns de ces bateaux, les Soussignés, dûment autorisés à cet effet, sont convenus des dispositions suivantes."

Article II should read:

„La Commission devra faire une enquête et dresser un rapport sur toutes les circonstances relatives à l'incident de la Mer du Nord, en particulier sur la question où gît responsabilité et sur le degré de blâme concernant les ressortissants des deux Hautes Parties Contractantes ou d'autres pays dans le cas où leur responsabilité se trouverait constatée par l'enquête."

Sir C. Hardinge to the Marquess of Lansdowne. — (Received November 18.)

(Telegraphic.) St. Petersburgh, November 18, 1904.

Draft Convention.

The proposed Russian form of Article II which I sent in my immediately preceding telegram of this evening embodies, as your Lordship will observe, the original text of our draft with the addition that the Commission will inquire as to the responsibility and degree of blame which should attach to any persons, whether subjects of Great Britain, Russia, or of other countries.

The fact that subjects of Great Britain, Russia, and other countries have been mentioned has apparently removed the feeling underlying the opposition of the Russian Government that the word „blame" was aimed at Russian officers alone.

This addition to Article II, which I trust will meet with the approval of His Majesty's Government, was suggested in the summary of your Lordship's telegrams which I handed to Count Lamsdorff yesterday afternoon, and for which I accept entire responsibility.

It may now be said that your Lordship's text has been integrally accepted, and if there is no other serious objection to the Russian draft, I think that it might be as well to accept it.

The Marquess of Lansdowne to Sir C. Hardinge.

(Telegraphic.) Foreign Office, November 18, 1904.

His Majesty's Government accept the Russian draft as described and explained in your despatch of 13th November and your telegrams of to-day, provided that the Russian Government agree that, should the Instrument about to be signed prove to be in any way inconsistent with the provisions of The Hague Convention, Articles IX to XIV, the Articles of the Instrument shall be held to override those of The Hague Convention.

„The Emperor of Austria, King of Hungary," should be inserted in Article I.

An English version of the Russian draft will be sent to you by post to-night.

The Marquess of Lansdowne to Sir C. Hardinge.

(Telegraphic.) Foreign Office, November 18, 1904.

We have no hesitation in accepting Russian proposal that International Commission should report upon responsibility and blame attaching not only to subjects of both the Powers, but of any other persons concerned. You will remember that in my telegram of 4th November we stated clearly that we believed ourselves to be in agreement with the Russian Government in holding that the conduct of all persons concerned, and not merely that of Russian officers, should be made the subject of investigation by the International Commission.

Sir C. Hardinge to the Marquess of Lansdowne. — (Received November 19.)

(Telegraphic.) St. Petersburgh, November 19, 1904.

I called on Count Lamsdorff to-day, and, in accordance with the instructions contained in your Lordship's telegram of yesterday's date, I handed to his Excellency on official note recording the condition under which His Majesty's Government were willing to accept the Russian draft for the conclusion of an Agreement for the appointment of an International Commission to inquire into the circumstances of the incident which took place in the North Sea.

Count Lamsdorff at once expressed his assent, and said that before giving me an official reply, which he promised to let me have as soon as possible, it would be necessary to submit my note to the Emperor in order to obtain His Majesty's approval.

He advocated signature taking place here in order to expedite matters.

Sir C. Hardinge to the Marquess of Lansdowne. — (Received November 20, 5·30 P.M.)

(Telegraphic.) St. Petersburgh, November 20, 1904, 4·10 P.M.

My immediately preceding telegram.

Have received note this morning from Count Lamsdorff, stating that my note of yesterday has been submitted to Emperor, and that Russian Government take act of this communication.

He awaits your Lordship's reply as to place of signature.

Sir C. Hardinge to the Marquess of Lansdowne. — (Received November 21.)

(Extract.) St. Petersburgh, November 18, 1904.

I have the honour to transmit herewith to your Lordship copy of a note and of its inclosure which I received late last night from Count Lamsdorff referring to a conversation which I had with his Excellency yesterday, and to a short summary of your Lordship's telegrams which I had handed him.

His Excellency states in his note that my conversation with him on the previous day, together with the summary which I had given him of your Lordship's telegrams, had greatly contributed to clear up the misunderstanding which had arisen between the two Governments as regards the text of the draft Convention for the establishment of an International Commission to inquire into the incident of the North Sea. The misunderstanding has now been shown to consist in the fact that the Russian Government had from the beginning intended that the object of the proposed Commission should be limited to that prescribed by the stipulations of The Hague Convention, while His Majesty's Government desired that the Commission of Inquiry should have more extended powers. He therefore inclosed to me a revised text of Article II, which, while being in conformity with your Lordship's original text, contained the developments indicated in the concluding paragraph of the summary which I had communicated to him. The text of the preamble had also been revised so as to include the details given in your Lordship's original text, to the omission of which I had drawn his attention.

Article II as it now stands embraces the whole scope of the same Article in your Lordship's original text.

I venture to express the opinion that it is very desirable, with a view to tranquillizing public opinion both here and in England, that no time should be lost in bringing the question to a final conclusion by the signature of the Convention without laying too much stress on small differences of wording and style which may have no important result on the final outcome of the Commission of Inquiry.

Count Lamsdorff alludes in his note throughout to the „Notice de Lord Lansdowns“, and cannot have understood me when I said that the document I handed to him was a résumé of the telegrams which I had received from your Lordship during the two previous days.

Inclosure 1.

Count Lamsdorff to Sir C. Hardinge.

Saint-Pétersbourg, le 4 (17) novembre 1904.

M. l'Ambassadeur,

Notre entretien d'hier et la notice que votre Excellence a bien voulu me remettre de la part de Lord Lansdowne ont grandement contribué à l'éclaircissement du malentendu qui existe entre les deux Gouvernements par rapport à la rédaction du projet de Convention d'Enquête relative à l'incident de la Mer du Nord.

Le malentendu consiste en ce que le Gouvernement Impérial était persuadé, dès le commencement, que les stipulations de la Convention de La Haye concernant les Commissions Internationales d'Enquête seraient la base unique de notre arrangement dans le cas présent; tandis que le Gouvernement de Sa Majesté Britannique entendait attribuer à la Commission d'Enquête une compétence plus étendue.

La notice de Lord Lansdowne établit d'une manière très précise le sens exact de l'Article II du projet Britannique, et j'ai l'honneur de vous communiquer ci-près une nouvelle rédaction de cet Article, qui, tout en étant absolument conforme à la rédaction Anglaise primitive, contient les développements indiqués à la fin de la notice susmentionnée de Lord Lansdowne.

Quant au préambule, le Ministère Impérial n'a pas hésité à modifier sa rédaction d'après le désir de votre Excellence, en y ajoutant les faits mentionnés dans le projet Anglais. Veuillez, &c.

(Signé) Comte *Lamsdorff.*

Inclosure 2.

Draft Convention.

Le Gouvernement Impérial de Russie et le Gouvernement de Sa Majesté Britannique, s'étant mis d'accord pour confier à une Commission Internationale d'Enquête, réunie conformément aux Articles IX—XIV de la Convention de La Haye du 17 (29) juillet, 1899, pour le règlement pacifique des conflits internationaux, le soin d'éclaircir, par un examen impartial et consciencieux, les questions de fait se rapportant à l'incident qui s'est produit durant la nuit du 8—9 (21—22) octobre, 1904, dans la Mer du Nord, au cours duquel le tir des pièces de canons de la flotte Russe occasionna la perte d'un bateau et la mort de deux personnes appartenant à une flottille de pêcheurs Britannique, ainsi que des dommages à d'autres bateaux de la dite flottille et des blessures aux équipages de quelques-uns de ces bateaux, les Soussignés, dûment autorisés à cet effet, sont convenus des dispositions suivantes:

Article I.

La Commission Internationale d'Enquête sera composée de cinq membres (Commissaires), dont deux seront des officiers de haut rang des marines Impériale Russe et Britannique respectivement. Les Gouvernements de France et des Etats-Unis d'Amérique seront priés de choisir, chacun, un de leurs officiers de marine de haut rang comme membre de la Commission. Le cinquième membre sera élu d'accord par les quatre membres susmentionnés.

Dans le cas où il ne se produirait pas d'entente entre les quatre Commissaires pour le choix du cinquième membre de la Commission, celui-ci sera choisi par Sa Majesté

Chacune des deux Hautes Parties Contractantes nommera également un Jurisconsulte-Assesseur avec voix consultative et un Agent, chargés à titre officiel de prendre part aux travaux de la Commission.

Article II.

La Commission devra faire une enquête et dresser un rapport sur toutes les circonstances relatives à l'incident de la Mer du Nord, en particulier, sur la question où gît la responsabilité et sur le degré de blâme concernant les ressortissants des deux Hautes Parties Contractantes ou d'autres pays, dans le cas où leur responsabilité se trouverait constatée par l'enquête.

Article III.

La Commission fixera les détails de la procédure qui sera suivie par elle pour l'accomplissement de la tâche qui lui est dévolue.

Article IV.

Les deux Hautes Parties Contractantes s'engagent à fournir à la Commission Internationale d'Enquête, dans la plus large mesure qu'elles jugeront possible, tous les moyens et les facilités nécessaires pour la connaissance complète et l'appréciation exacte des faits en question.

Article V.

La Commission se réunira à Paris aussitôt que faire se pourra après la signature de cet arrangement.

Article VI.

La Commission présentera aux deux Hautes Parties Contractantes son rapport signé par tous les membres de la Commission.

Article VII.

La Commission prendra toutes ses décisions à la majorité des voix des cinq Commissaires.

Article VIII.

Le Gouvernement Impérial de Russie garde à sa charge, par réciprocité, les frais de l'enquête faite par lui préalablement à la réunion de la Commission. Quant aux dépenses qui incomberont à la Commission Internationale d'Enquête à partir du moment de sa réunion pour l'installation

de ses services et les investigations nécessaires, elles seront faites en commun par les deux Gouvernements.

En foi de quoi les Soussignés ont signé le présent arrangement, et y ont apposé le sceau de leurs armes.

Fait en double à , le novembre, 1904.

The Marquess of Lansdowne to Sir C. Hardinge.

(Telegraphic.) Foreign Office, November 21, 1904.

I have received your telegrams of the 19th and 20th instant.

We are anxious, as much as possible, to expedite matters and to meet the views of the Russian Government, and we accordingly agree that the Instrument shall be termed a Declaration, and shall be signed at St. Petersburgh.

You are authorized to sign pending the receipt of full powers, which will be prepared and sent out to you at once.

Sir C. Hardinge to the Marquess of Lansdowne. — (Received November 22.)

(Extract.) St. Petersburgh, November 19, 1904.

I have the honour to transmit herewith to your Lordship a note, which I to-day handed to Count Lamsdorff, containing the condition put forward by your Lordship, for the acceptance of the text of the Russian draft Declaration for the appointment of an International Commission to inquire into and report upon the recent incident in the North Sea.

Count Lamsdorff, after reading a French translation which I had brought with me for his Excellency's convenience, at once expressed his assent to your Lordship's condition which he characterized as self-evident, but he added that he must submit my note to-day to the Emperor, and that he would give me an official reply with the least possible delay.

His Excellency observed that after my interview with him on Wednesday last, when he had had time to study carefully the summary of your Lordship's telegrams which I had given to him, he arrived at the conviction that the views of the two Governments were really indentical, since the recommendations of The Hague Conference were accepted by both as the basis of the Commission of Inquiry, while he fully realized the advantage of extending the competency of the Court.

Count Lamsdorff appeared to be very anxious to conclude this controversy by the signature of an Agreement with the least possible delay.

Inclosure.

Sir C. Hardinge to Count Lamsdorff.

St. Petersburgh, November 6 (19), 1904.

M. le Comte,

I have the honour to acknowledge the receipt of your Excellency's note of the 4th (17th) instant, in which you were so good as to forward

to me a revised text of the draft Agreement which it is proposed to conclude between the two Governments relating to the institution of an International Commission to inquire into the incident of the North Sea.

I duly forwarded to the Marquess of Lansdowne your Excellency's note and its inclosure, and I have now the pleasure of informing your Excellency that His Majesty's Government accept the text inclosed in your above-mentioned note, provided that the Imperial Russian Government agree that, should the Instrument about to be signed prove in any way inconsistent with the stipulations of The Hague Convention included in Articles IX to XIV, the Articles of the Instrument shall be held to override those of The Hague Convention.

I avail, &c.
(Signed) *Charles Hardinge.*

Sir C. Hardinge to the Marquess of Lansdowne. — (Received November 22.)

(Telegraphic.) St. Petersburgh, November 22, 1904.

By agreement with Ministry of Foreign Affairs, VIIIth Article of Convention should run:

„Les deux Hautes Parties Contractantes s'engagent à garder chacune à sa charge, par réciprocité, les frais de l'enquête faite par elle préalablement", &c.

The Marquess of Lansdowne to Sir C. Hardinge.

(Telegraphic.) Foreign Office, November 22, 1904.

My telegram of yesterday.

The text to be signed will be that which is inclosed in your despatch of 18th November.

We would suggest that words „celui-ci sera choisi par" should be struck out, and the words „sera invité à le nommer" inserted after word „Hongrie".

The Marquess of Lansdowne to Sir C. Hardinge.

(Telegraphic.) Foreign Office, November 23, 1904.

His Majesty's Government concur in the wording of Article 8 of the Declaration, as given in your telegram of yesterday.

Sir C. Hardinge to the Marquess of Lansdowne. — (Received November 23.)

St. Petersburgh, November 20, 1904.

My Lord,

With reference to my immediately preceding despatch of yesterday, I have the honour to transmit to your Lordship herewith copy of a note from Count Lamsdorff, taking act of my note of yesterday, in which I

intimated the acceptance by His Majesty's Government of the last draft prepared by the Russian Government of the Convention regulating the composition and functions of the International Commission of Inquiry which is to investigate the North Sea incident.

I have, &c.
(Signed) *Charles Hardinge.*

Inclosure.

Count Lamsdorff to Sir C. Hardinge.

Ministère des Affaires Etrangères, le 6 novembre, 1904.

M. l'Ambassadeur,

J'ai l'honneur d'accuser réception de la note en date d'aujourd'hui, par laquelle votre Excellence a bien voulu m'informer que le Gouvernement de Sa Majesté Britannique accepte le projet définitif de Convention d'Enquête qui a été joint à ma lettre du 4 novembre courant. Je n'ai pas manqué de soumettre la note de votre Excellence à Sa Majesté l'Empereur, et je m'empresse de porter à votre connaissance que le Gouvernement Impérial prend acte de cette communication.

En attendant la réponse du Gouvernement Britannique au sujet de la question du lieu de la signature de notre Arrangement, je profite, &c.

(Signé) *Lamsdorff.*

(Translation.)

Ministry for Foreign Affairs, November 6, 1904.

Sir,

I have the honour to acknowledge the receipt of the note of to-day's date, by which your Excellency was good enough to inform me that His Britannic Majesty's Government accept the final draft of the Inquiry Agreement which was inclosed in my letter of the 4th instant. I did not fail to submit your Excellency's note to His Majesty the Emperor, and I hasten to acquaint you that the Imperial Government take act of that communication.

While awaiting the reply of the British Government in regard to the question of the place of signature of our Agreement, I avail myself, &c.

(Signed) *Lamsdorff.*

Sir C. Hardinge to the Marquess of Lansdowne. — (Received November 25.)

(Telegraphic.) St. Petersburgh, November 25, 1904.

Declaration signed this afternoon with alteration in paragraph 2, Article I, suggested in your telegram of the 22nd instant.

His Excellency asked that the text should not be published till Monday morning. It will appear here that morning in the „Official Messenger".

I am sending documents by registered post to-night.

Sir C. Hardinge to the Marquess of Lansdowne. — (Received November 28.)

St. Petersbourgh, November 25, 1904.

My Lord,

I have the honour to transmit to your Lordship herewith the British copy of the Declaration providing for the reference to an International Commission of the inquiry into the circumstances of the North Sea incident, which I signed this afternoon in company with Count Lamsdorff, together with the Protocoll certifying the correctness of the two instruments.

I have, &c,

(Signed) *Charles Hardinge.*

Inclosure 1.

Declaration.

Le Gouvernement de Sa Majesté Britannique et le Gouvernement Impérial de Russie s'étant mis d'accord pour confier à une Commission Internationale d'Enquête, réunie conformément aux Articles IV—XIV de la Convention de la Haye du 29 (17) juillet 1899, pour le règlement pacifique des conflits internationaux, le soin d'éclaircir par un examen impartial et consciencieux les questions de fait se rapportant à l'incident qui s'est produit durant la nuit du 21—22 (8—9) octobre 1904, dans la Mer du Nord, — au cours duquel le tir des pièces de canons de la flotte Russe eccasionna la perte d'un bateau et la mort de deux personnes appartenant à une flottille de pêcheurs Britanniques ainsi que des dommages à d'autres bateaux de la dite flottille et des blessures aux équipages de quelques-uns de ces bateaux, — les Soussignés, dûment autorisés à cet effet, sont convenus des dispositions suivantes:

Article I.

La Commission Internationale d'Enquête sera composée de cinq membres (Commissaires), dont deux seront des officiers de haut rang des marines Britannique et Impériale Russe respectivement. Les Gouvernements de France et des États-Unis d'Amérique seront priés de choisir, chacun, un de leurs officiers de marine de haut rang comme membre de la Commission. Le cinquième membre sera élu d'accord par les quatre membres susmentionnés.

Dans le cas où il ne se produirait pas d'entente entre les quatre Commissaires pour le choix du cinquième membre de la Commission, Sa Majesté l'Empereur d'Autriche, Roi de Hongrie, sera invité à le nommer.

Chacune des deux Hautes Parties Contractantes nommera également un Jurisconsulte-Assesseur avec voix consultative et un Agent, chargés, à titre officiel, de prendre part aux travaux de la Commission.

Article II.

La Commission devra faire une enquête et dresser un rapport sur toutes les circonstances relatives à l'incident de la Mer du Nord, en particulier, sur la question où gît la responsabilité et sur le degré de blâme concernant les ressortissants des deux Hautes Parties Contractantes ou d'autres pays dans le cas où leur responsabilité se trouverait constatée par l'enquête.

Article III.

La Commission fixera les détails de la procédure qui sera suivie par elle pour l'accomplissement de la tâche qui lui est dévolue.

Article IV.

Les deux Hautes Parties Contractantes s'engagent à fournir à la Commission Internationale d'Enquête, dans la plus large mesure qu'Elles jugeront possible, tous les moyens et les facilités nécessaires pour la connaissance complète et l'appréciation exacte des faits en question.

Article V.

La Commission se réunira à Paris aussitôt que faire se pourra, après la signature de cet arrangement.

Article VI.

La Commission présentera aux deux Hautes Parties Contractantes son rapport signé par tous les membres de la Commission.

Article VII.

La Commission prendra toutes ses décisions à la majorité des voix des cinq Commissaires.

Article VIII.

Les deux Hautes Parties Contractantes s'engagent à garder chacune à sa charge, par réciprocité, les frais de l'enquête faite par elle préalablement à la réunion de la Commission. Quant aux dépenses qui incomberont à la Commission Internationale d'Enquête à partir du moment de sa réunion pour l'installation de ses services et les investigations nécessaires, elles seront faites en commun par les deux Gouvernements.

En foi de quoi les Soussignés ont signé la présente Déclaration et y ont apposé le sceau de leurs armes.

Fait en double à Saint-Pétersbourg, le 25 (12) novembre 1904.

(L. S.) (Signé) *Charles Hardinge.*
(L. S.) (Signé) Comte *Lamsdorff.*

Inclosure 2.

Protocole.

Les Soussignés se sont réunis aujourd'hui à l'Hôtel du Ministère Impérial des Affaires Etrangères pour procéder à la signature d'une Déclaration entre le Gouvernement de Sa Majesté Britannique et le Gouvernement Impérial de Russie concernant l'institution d'une Commission Internationale d'Enquête au sujet de l'incident de la Mer du Nord.

Après lecture des instruments respectifs, lesquels ont été trouvés en bonne et due forme, la signature de la dite Déclaration a eu lieu selon l'usage.

En foi de quoi les Soussignés ont dressé le présent Protocole et l'ont revêtu du sceau de leurs armes.

Fait en double à Saint-Pétersbourg, le 25 (12) novembre, 1904.

(L. S.) (Signé) *Charles Hardinge.*
(L. S.) (Signé) Comte *Lamsdorff.*

Mr. O'Beirne to the Marquess of Lansdowne. — (Received February 25.)

Paris, February 24, 1905.

My Lord,

I have the honour to transmit herewith, for the information of His Majesty's Government, a copy of the Report of the Commission of Inquiry on the subject of the North Sea incident. It will be read to-morrow at a public sitting.

I have, &c.

(Signed) *Hugh O'Beirne.*

Inclosure.

Rapport des Commissaires établi conformément à l'Article 6 de la Déclaration de Saint-Pétersbourg du 12 (25) novembre, 1904.

1er. Les Commissaires, après un examen minutieux et prolongé de l'ensemble des faits parvenus à leur connaissance sur l'incident soumis à leur enquête par la Déclaration de Saint-Pétersbourg du 12 (25) novembre, 1904, ont procédé dans ce rapport à un exposé analytique de ces faits suivant leur enchaînement rationnel.

En faisant connaître les appréciations dominantes de la Commission en chaque point important ou décisif de cet exposé sommaire, ils pensent avoir mis suffisamment en lumière les causes et les conséquences de l'incident en question en même temps que les responsabilités qui s'en dégagent.

2. La seconde escadre Russe de la flotte du Pacifique, sous le commandement en chef du Vice-Amiral Aide-de-camp Général Rostjestvensky, mouillait le 7 (20) octobre, 1904, auprès du Cap Skagen avec l'intention de faire du charbon avant de continuer sa route pour l'Extrême-Orient.

Il paraît, d'après les dépositions acquises, que, dès le départ de l'escadre de la rade de Réval, l'Amiral Rostjestvensky avait fait prendre des précautions minutieuses par les bâtiments placés sous ses ordres afin de les mettre pleinement en état de repousser pendant la nuit une attaque de torpilleurs, soit à la mer soit au mouillage.

Ces précautions semblaient justifiées par les nombreuses informations des Agents du Gouvernement Impérial au sujet de tentatives hostiles à redouter, et qui, selon toutes vraisemblances, devaient se produire sous la forme d'attaques de torpilleurs.

En outre, pendant son séjour à Skagen l'Amiral Rostjestvensky avait été averti de la présence de bâtiments suspects sur la côte de Norvège. Il avait appris, de plus, par le Commandant du transport „Bakan", arrivant du nord, que celui-ci avait aperçu la nuit précédente quatre torpilleurs ne portant qu'un seul feu et en tête de mât.

Ces nouvelles décidèrent l'Amiral à avancer son départ de vingt-quatre heures.

3. En conséquence, chacun des six échelons distincts de l'escadre appareilla séparément à son tour et gagna la Mer du Nord, indépendamment, dans l'ordre indiqué par le rapport de l'Amiral Rostjestvensky; cet officier général commandant en personne le dernier échelon formé par les

quatre nouveaux cuirassés „Prince Souvoroff“, Empereur Alexandre III“, „Borodino“, „Orel“, et le transport „Anadyr“.

Cet échelon quitta Skagen le 7 (20) Octobre à 10 heures du soir.

La vitesse de 12 nœuds fut prescrite aux deux premiers échelons, et celle de 10 nœuds aux échelons suivants.

4. Entre 1 heure 30 et 4 heures 15 de l'après-midi du lendemain, 8 (21) Octobre, tous les échelons de l'escadre furent croisés successivement par le vapeur Anglais „Zéro“, dont le Capitaine examina avec assez d'attention les différentes unités pour permettre de les reconnaître d'après la description qu'il en fit.

Les résultats de ses observations sont conformes d'ailleurs en général aux indications du rapport de l'Amiral Rostjestvensky.

5. Le dernier navire croisé par le „Zéro“ était le „Kamchatka“, d'après la description qu'il en donna.

Ce transport, qui formait primitivement groupe avec le „Dmitri Donskoi“ et l'„Aurora“, se trouvait donc alors attardé et isolé à une dizaine de milles environ en arrière de l'escadre; il avait été obligé de diminuer de vitesse à la suite d'une avarie de machine.

Ce retard accidentel fût peut-être la cause incidente des événements qui suivirent.

6. Vers 8 heures du soir, en effet, ce transport rencontra le bâtiment Suédois „Aldebaran“ et d'autres navires inconnus, qu'il canonna sans doute par suite des préoccupations que lui causaient dans les circonstances du moment son isolement, ses avaries de machine et son peu de valeur militaire.

Quoiqu'il en soit, le Commandant du „Kamchatka“ transmit à 8 heures 45 à son Commandant-en-chef par la télégraphie sans fil, au sujet de cette rencontre, l'information qu'il était „attaqué de tous côtés par des torpilleurs“.

7. Pour se rendre compte de la part que cette nouvelle put prendre dans les déterminations ultérieures de l'Amiral Rostjestvensky, il faut considérer que dans ses prévisions les torpilleurs assaillants, dont la présence lui était ainsi signalée, à tort ou à raison, à une cinquantaine de milles en arrière de l'échelon des vaisseaux qu'il commandait, pouvaient le rejoindre pour l'attaquer à son tour vers 1 heure du matin.

Cette information décida l'Amiral Rostjestvensky à signaler à ses bâtiments vers 10 heures du soir de redoubler de vigilance et de s'attendre à une attaque de torpilleurs.

8. A bord du „Souvoroff“ l'Amiral avait jugé indispensable que l'un des deux officiers supérieurs de son état-major fût de quart sur la passerelle de commandement pendant la nuit afin de surveiller, à sa place, la marche de l'escadre et de le prévenir immédiatement s'il se produisait quelqu'incident.

A bord de tous les bâtiments, d'ailleurs, les ordres permanents de l'Amiral prescrivaient que l'officier chef de quart était autorisé à ouvrir le feu dans le cas d'une attaque évidente et imminente de torpilleurs.

Si l'attaque venait de l'avant il devait le faire de sa propre initiative, et, dans le cas contraire, beaucoup moins pressant, il devait en référer à son Commandant.

Au sujet de ces ordres la majorité des Commissaires estime qu'ils n'avaient rien d'excessif en temps de guerre, et particulièrement dans les circonstances, que l'Amiral Rostjestvensky avait tout lieu de considérer comme très alarmantes, dans l'impossibilité où il se trouvait, de contrôler l'exactitude des avertissements qu'il avait reçus des Agents de son Gouvernement.

9. Vers 1 heure du matin le 9 (22) obtobre, 1904, la nuit était à demi obscure, un peu voilée par une brume légère et basse. La lune ne se montrait que par intermittences entre les nuages. Le vent soufflait modérément du sud-est, en soulevant une longue houle qui imprimait aux vaisseaux des roulis de 5 degrés de chaque bord.

La route suivie par l'escadre vers le sud-ouest devait conduire les deux derniers échelons, ainsi que la suite des événements l'a prouvé, à passer à proximité du lieu de pêche habituel de la flottille des chalutiers de Hull, composée d'une trentaine de ces petits bâtiments à vapeur et couvrant une étendue de quelques milles.

Il résulte des dépositions concordantes des témoins Britanniques que tous ces bateaux portaient leurs feux réglementaires et chalutaient conformément à leurs règles usuelles, sous la conduite de leur maître de pêche, suivant les indications de fusées conventionnelles.

10. D'après les communications reçues par la télégraphie sans fil, rien d'anormal n'avait été signalé par les échelons qui précédaient celui de l'Amiral Rostjestvensky en franchissant ces paragcs.

On a su depuis, notamment, que l'Amiral Fölkersam, ayant été conduit à contourner la flottille dans le nord, éclaira de très près avec ses projecteurs électriques les chalutiers les plus voisins et, les ayant reconnus ainsi pour des bâtiments inoffensifs, continua tranquillement sa route.

11. C'est peu de temps après qu'arrivait à son tour, à proximité du lieu de pêche des chalutiers, le dernier échelon de l'escadre conduit par le „Souvoroff“, battant pavillon de l'Amiral Rostjestvensky.

La route de cet échelon le conduisait à peu près sur le gros de la flottille des chalutiers, qu'il allait donc être obligé de contourner, mais dans le sud, quand l'attention des officiers de service sur les passerelles du „Souvoroff“ fut attirée par une fusée verte qui les mit en défiance.

Cette fusée, lancée par le maître de pêche, indiquait en réalité, suivant leurs conventions, que les chalutiers devaient draguer le côté tribord au vent.

Presque immédiatement après cette première alerte et en se rapportant aux dépositions, les observateurs, qui des passerelles du „Souvoroff“ fouillaient l'horizon avec des jumelles de nuit, découvrirent „sur la crête des lames dans la direction du bossoir de tribord et à une distance approximative de 18 à 20 encablures,“ un bâtiment qui leur parut suspect parce qu'ils ne lui voyaient aucun feu et que ce bâtiment leur semblait se diriger vers eux à contre-bord.

Lorsque le navire suspect fut éclairé par un projecteur, les observateurs crurent reconnaître un torpilleur à grande allure.

C'est d'après ces apparences que l'Amiral Rostjestvensky fit ouvrir le feu sur ce navire inconnu.

La majorité des Commissaires exprime à ce sujet l'opinion que la responsabilité ce cet acte et les résultats de la canonnade essuyée par la flottille de pêche incombent à l'Amiral Rostjestvensky.

12. Presque aussitôt après l'ouverture du feu par tribord, le „Souvoroff" aperçut sur son avant un petit bateau lui barrant la route et fut obligé de lancer sur la gauche pour éviter de l'aborder. Mais ce bateau, éclairé par un projecteur, fut reconnu être un chalutier.

Pour empêcher que le tir des vaisseaux fût dirigé sur ce bâtiment inoffensif, l'axe du projecteur fut aussitôt relevé à 45° vers le ciel.

Ensuite, l'Amiral fit adresser par signal à l'escadre l'ordre „de ne pas tirer sur les chalutiers".

Mais en même temps que le projecteur avait éclairé ce bateau de pêche, d'après les dépositions des témoins, les observateurs du „Souvoroff" aperçurent à bâbord un autre bâtiment qui leur parut suspect, à cause de ses apparences de même nature que celles de l'objectif du tir par tribord.

Le feu fut aussitôt ouvert sur ce deuxième but et se trouva ainsi engagé des deux bords, la file des vaisseaux étant revenue par un mouvement de contre-marche à sa route primitive sans avoir changé de vitesse.

13. D'après les ordres permanents de l'escadre, l'Amiral indiquait les buts sur lesquels devait être dirigé le tir des vaisseaux en fixant sur eux ses projecteurs. Mais comme chaque vaisseau balayait l'horizon en tout sens autour de lui avec ses propres projecteurs pour se garer d'une surprise, il était difficile qu'il ne se produisît pas de confusion.

Ce tir, d'une durée de dix à douze minutes, causa de graves dommages dans la flottille des chalutiers. C'est ainsi que deux hommes furent tués et six autres blessés; que le „Crane" sombra; que le „Snipe", le „Mino", le „Moulmein", le „Gull", et le „Majestic" reçurent des avaries plus ou moins importantes.

D'autre part, le croiseur „Aurora" fut atteint par plusieurs projectiles.

La majorité des Commissaires constate qu'elle manque d'éléments précis pour reconnaître sur quel but ont tiré les vaisseaux, mais les Commissaires reconnaissent unanimement que les bateaux de la flottille n'ont commis aucun acte hostile; et la majorité des Commissaires étant d'opinion qu'il n'y avait, ni parmi les chalutiers, ni sur les lieux, aucun torpilleur, l'ouverture du feu par l'Amiral Rostjestvensky n'était pas justifiable.

Le Commissaire Russe, ne se croyant pas fondé à partager cette opinion, énonce la conviction que ce sont précisément les bâtiments suspects s'approchant de l'escadre dans un but hostile qui ont provoqué le feu.

14. Au sujet des buts réels de ce tir nocturne, le fait que l'„Aurora" a reçu quelques projectiles de 47 millim. et de 75 millim. serait de nature à faire supposer que ce croiseur, et peut-être même d'autres bâtiments Russes, attardé sur la route du „Souvoroff" à l'insu de ce vaisseau, ait pu provoquer et attirer les premiers feux.

Cette erreur pouvait être motivée par le fait que ce navire, vu de l'arrière, ne montrait aucune lumière apparente, et, par une illusion d'optique nocturne dont les observateurs du vaisseau-amiral auraient été l'objet.

A ce propos les Commissaires constatent qu'il leur manque des renseignements importants leur permettant de connaître les raisons qui ont provoqué la continuation du tir à bâbord.

Dans cette conjecture certains chalutiers éloignés auraient pu être confondus avec les buts primitifs et ainsi canonnés directement. D'autres, au contraire, ont pu être atteints par un tir dirigé sur des buts plus éloignés.

Ces considérations ne sont pas d'ailleurs en contradiction avec les impressions de certains chalutiers qui, en se voyant atteints par des projectiles et restant éclairés dans le pinceau des projecteurs, pouvaient se croire l'objet de tir direct.

15. La durée du tir sur tribord, même en se plaçant au point de vue de la version Russe, a semblé à la majorité des Commissaires avoir été plus longue qu'elle ne paraissait nécessaire.

Mais cette majorité estime qu'elle n'est pas suffisamment renseignée, ainsi qu'il vient d'être dit, au sujet de la continuation du tir par bâbord.

En tout cas, les Commissaires se plaisent à reconnaître à l'unanimité que l'Amiral Rostjestvensky a fait personnellement tout ce qu'il pouvait, du commencement à la fin, pour empêcher que les chalutiers, reconnus comme tels, fussent l'objet du tir de l'escadre.

16. Quoiqu'il en soit, le „Dmitri Donskoi“ ayant fini par signaler son numéro, l'Amiral se décida à faire le signal général de „cesser le feu“; la file de ses vaisseaux continua alors sa route et disparut dans le sud-ouest sans avoir stoppé.

A cet égard, les Commissaires sont unanimes à reconnaître, qu'après les circonstances qui ont précédé l'incident et celles qui l'ont produit, il y avait à la fin du tir assez d'incertitudes au sujet du danger que courait l'échelon des vaisseaux pour décider l'Amiral à continuer sa route.

Toutefois, la majorité des Commissaires regrette que l'Amiral Rostjestvensky n'ait pas eu la préoccupation, en franchissant le Pas de Calais, d'informer les autorités des Puissances maritimes voisines qu'ayant été amené à ouvrir le feu près d'un groupe de chalutiers, ces bateaux, de nationalité inconnue, avaient besoin de secours.

17. Les Commissaires, en mettant fin à ce rapport, declarent que leurs appréciations, qui s'y trouvent formulées, ne sont pas dans leur esprit de nature à jeter aucune déconsidération sur la valeur militaire ni sur les sentiments d'humanité de l'Amiral Rostjestvensky et du personnel de son escadre.

(Signé: *Spaun, Fournier, Doubassoff, Lewis Beaumont, Charles-Henry Davis.)*

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